UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF IOWA

GUIDE FOR FILING FEDERAL CIVIL SUITS

(Pro Se-Party not being represented by an attorney)

Item

Requirements

Civil Cover

One original is required. Please insert county of plaintiff. If the United States is the plaintiff, please insert county of defendant. The "Cause of Action" section must be completed with the proper code. A detailed listing of the "Cause of Actions Codes" are available on this Court's website under "Forms/Publications"

Summons

Original plus two summons for each party to be served.

Exception: IF ANY AGENT OR AGENCY OF THE U.S.

GOVERNMENT NAMED, TWO COPIES PLUS ONE FOR EACH
NAMED DEFENDANT ARE REQUIRED. The Government is
exempt from service by waiver of service of summons. Service is
effected by certified or registered mail

or

Waiver of Service of Summons

Form

Two completed waivers for each party to be served.

Complaint

The original and a complete conformed copy, together with exhibits, if any for each defendant to be served are required.

Signature

The complaint and all original pleadings must be signed by the party filing the complaint, with a complete address and telephone number.

Service

See F.R.C.P. 4 Service may be made in accordance with Rule. Except for extra-ordinary circumstances, the Marshal shall decline to serve process in the absence of a special order of the court.

Court Fees

The fee for filing a new civil case is \$350.00 (whether Complaint or Petition for Removal). Payment can be made by cash, money order, check, payable to the "Clerk, U.S. District Court or by credit card. Please see this Court's website for a Credit Card Authorization Form.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS				DEFENDANT	ΓS					
Œ	of First Listed Plaintiff XCEPT IN U.S. PLAINTIFF CA , Address, and Telephone Number	,			LAND ND II	(IN U.S	. PLAINTIFF CA MNATION CASE	•	OCATION OF	тне
II. BASIS OF JURISD	DICTION (Place an "X" i	n Onc Box Only)	III. CI	TIZENSHIP O	F Pl	RINCI	PAL PARTI	ES(Place an "	'X" in One Box	for Plaintiff
☐ 1 U.S. Government Plaintiff	☐ 3 Federal Question (U.S. Government I	Not a Party)	ŀ	(For Diversity Cases On on of This State	nly) PT			or Principal Pla	e Box for Defer PTF ace	DEF
☐ 2 U.S. Government Defendant	☐ 4 Diversity (Indicate Citizenshi	p of Parties in Item III)		n of Another State	0	2 🗇	2 Incorporated of Busines	and Principal P is In Another St		
				n or Subject of a reign Country		3 🗆	3 Foreign Natio	on		6 🗆 6
IV. NATURE OF SUI	(Place an "X" in One Box On		100	Reguleren zarren en er	TV	b	ANKRUPTCY		THER STAT	TIPE
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment	PERSONAL INJURY 310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers' Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle Product Liability	PERSONAL INJUR 362 Personal Injury Med. Malpractic 365 Personal Injury Product Liability 368 Asbestos Personal Injury Product Liability PERSONAL PROPER 370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage Product Liability PRISONER PETITIO 510 Motions to Vaca Sentence Habeas Corpus: 530 General 535 Death Penalty 540 Mandamus & Ot 550 Civil Rights 555 Prison Condition	1	0 Agriculture 0 Other Food & Drug 5 Drug Related Seizure of Property 21 USC 8 0 Liquor Laws 0 R.R. & Truck 0 Airline Regs. 0 Occupational Safety/Health 0 Other	es 881 nns nng	422 A 423 W 28 PROP 820 Cc 830 Pa 840 Tr 861 H 862 B 864 SS 865 RS FEDR	ppeal 28 USC 158 lithdrawal 3 USC 157 PER VARIGHTS opyrights atent	400	State Reapporti Antitrust Banks and Ban Commerce Deportation Racketeer Influ Corrupt Organi Consumer Crec Cable/Sat TV Selective Servits Securities/Come Exchange Customer Chall 2 USC 3410 Other Statutory Agricultural Ac Economic Stab Environmental Environmental Freedom of Inf Act Appeal of Fee E Under Equal Ac to Justice Constitutionalit State Statutes	ionment king lenced and izations dit ce lenge / Actions cts iilization Act Matters cion Act Ormation Determination ccess
□ 1 Original □ 2 Re		Remanded from [Appellate Court		stated of \Box 3		erred fror r district y)	m □ 6 Multi Litiga		Appeal Judge f Magisti Judgme	rate
VI. CAUSE OF ACTION		atute under which you a	re filing (Do not cite jurisdic	tiona	l statutes	s unless diversi	ty):		
VII. REQUESTED IN COMPLAINT:	CHECK IF THIS UNDER F.R.C.P.	IS A CLASS ACTION 23	N D	EMAND \$			CHECK YES	•	nded in compl Yes 🗖 N	
VIII. RELATED CAS IF ANY	E(S) (See instructions):	JUDGE				DOCI	KET NUMBER			
DATE		SIGNATURE OF AT	TTORNEY	OF RECORD		_				
FOR OFFICE USE ONLY										
RECEIPT # A	MOUNT	APPLYING IFP		JUDG	ΞE		MAC	. JUDGE		

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

- III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

- VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes**unless diversity.

 Example:
 U.S. Civil Statute: 47 USC 553
 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

	for the
)
Plaintiff	_)
) Civil Action No.
v.) Civil Action No.
	·)
Defendant	
SUMMON	IS IN A CIVIL ACTION
SUMMON	IS IN A CIVIL ACTION
To: (Defendant's name and address)	
A lawsuit has been filed against you.	
are the United States or a United States agency, or an P. 12 (a)(2) or (3) — you must serve on the plaintiff a	s on you (not counting the day you received it) — or 60 days if you officer or employee of the United States described in Fed. R. Civ. an answer to the attached complaint or a motion under Rule 12 of motion must be served on the plaintiff or plaintiff's attorney,
	•
If you fail to respond, judgment by default we You also must file your answer or motion with the co	rill be entered against you for the relief demanded in the complaint.
	CLERK OF COURT
Data	
Date:	Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (1))

was re	This summons for (name on (date)	me of individual and title, if any)		
	☐ I personally served	the summons on the individual at (place)		
			on (date)	; or
	☐ I left the summons	at the individual's residence or usual pla		
			ole age and discretion who resid	
	on (date)	, and mailed a copy to the indi	vidual's last known address; or	
	☐ I served the summo	ons on (name of individual)		, who is
	designated by law to a	accept service of process on behalf of (na	ame of organization)	
			on (date)	; or
	☐ I returned the summ	mons unexecuted because		; or
	☐ Other (specify):			
	My fees are \$	for travel and \$	for services, for a total of \$	0.00
	I declare under penalt	y of perjury that this information is true.		
Date:			Server's signature	
			Printed name and title	
			Server's address	

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF IOWA DIVISION

)		
	Plaintiff,)		
)	Casa No	
	v.)	Case No	
)		
	nissioner of Social Security nistration,)		
	Defendant.)		
	COMPLAINT FOR	R JUDICIAL RE	VIEW OF DE	CISION OF THE
	•	ISSIONER OF S		
	Plaintiff,			, resides at
				,
	street address		city	county
			,	bhone number
	state	zip code	telep	mone number
		_	_	
	The last four digits of plain	ntiff's social sec	urity number a	re
I.	The last four digits of plain. This is an action for judicit Security denying plaintiff	ntiff's social sect al review of the disability insuran	arity number a	
I.	The last four digits of plain. This is an action for judicing Security denying plaintiff benefits (circle one or both	ntiff's social sectal review of the disability insurant).	urity number a final decision nce and/or sup	re of the Commissioner of Soc plemental security income (
	The last four digits of plain. This is an action for judicing Security denying plaintiff benefits (circle one or both Plaintiff has exhausted all	ntiff's social sectal review of the disability insurant).	urity number a final decision nee and/or sup	re of the Commissioner of Soc plemental security income (
I. 7.	The last four digits of plain. This is an action for judicic Security denying plaintiff benefits (circle one or both Plaintiff has exhausted all jurisdiction to review this	al review of the disability insurant). of his or her admenter pursuant	urity number a final decision nce and/or sup ninistrative rea to 42 U.S.C. §	of the Commissioner of Soc plemental security income (medies, and the Court has § 1383(c)(3) and/or 405(g).
I.	The last four digits of plain. This is an action for judicing Security denying plaintiff benefits (circle one or both Plaintiff has exhausted all jurisdiction to review this This action is timely filed	al review of the adisability insurant). of his or her adminatter pursuant as it is filed with	arity number a final decision nee and/or sup ninistrative read 42 U.S.C. §	re of the Commissioner of Soc plemental security income (medies, and the Court has § 1383(c)(3) and/or 405(g). the date on which plaintiff
I. 7.	The last four digits of plain. This is an action for judicit Security denying plaintiff benefits (circle one or both Plaintiff has exhausted all jurisdiction to review this This action is timely filed received notice from the Association and the security of the securit	al review of the disability insurant). of his or her adminatter pursuant as it is filed with appeals Council.	arity number a final decision nce and/or sup ninistrative rea to 42 U.S.C. § in 60 days of That letter is	of the Commissioner of Soc plemental security income (medies, and the Court has § 1383(c)(3) and/or 405(g). The date on which plaintiff dated
I. 7.	The last four digits of plain. This is an action for judicit Security denying plaintiff benefits (circle one or both Plaintiff has exhausted all jurisdiction to review this This action is timely filed received notice from the Association and the security of the securit	al review of the disability insurant). of his or her adminatter pursuant as it is filed with appeals Council.	arity number a final decision nce and/or sup ninistrative rea to 42 U.S.C. § in 60 days of That letter is	re of the Commissioner of Soc plemental security income (medies, and the Court has § 1383(c)(3) and/or 405(g). the date on which plaintiff

	(State plainly why plaintiff is entitled to relief. A	ttach additional pages in necessary).
VII.	The final decision of the Commissioner should be	:
	(Indicate whether you believe the final decision sl directions to pay benefits, or reversed and remand	
VIII.	Venue is proper in this District because the plaint	iff resides within this District.
VIII.	Venue is proper in this District because the plaints WHEREFORE, plaintiff seeks judicial review by relief as may be proper, including costs and attorney	this Court and entry of judgment for
such r	WHEREFORE, plaintiff seeks judicial review by	this Court and entry of judgment for

for the

Plaintiff) v.)	Civil Action No.
Defendant)	
NOTICE OF A LAWSUIT AND REQUEST TO	WAIVE SERVICE OF A SUMMONS
To:	
(Name of the defendant or - if the defendant is a corporation, partnership, or	r association - an officer or agent authorized to receive service)
Why are you getting this?	
A lawsuit has been filed against you, or the entity you repart A copy of the complaint is attached.	resent, in this court under the number shown above.
This is not a summons, or an official notice from the court. service of a summons by signing and returning the enclosed waive waiver withindays (give at least 30 days, or at least 60 days if the diffrom the date shown below, which is the date this notice was sent. a stamped, self-addressed envelope or other prepaid means for returning the enclosed waive	r. To avoid these expenses, you must return the signed defendant is outside any judicial district of the United States) Two copies of the waiver form are enclosed, along with
What happens next?	
If you return the signed waiver, I will file it with the court. on the date the waiver is filed, but no summons will be served on y is sent (see the date below) to answer the complaint (or 90 days if the United States).	you and you will have 60 days from the date this notice
If you do not return the signed waiver within the time indic served on you. And I will ask the court to require you, or the entity	
Please read the enclosed statement about the duty to avoid	unnecessary expenses.
I certify that this request is being sent to you on the date b	elow.
D.C.	
Date:	Signature of the attorney or unrepresented party
	Printed name
	г тикей пате
	Address
	E-mail address
	Telephone number
	Telephone number

for the

Plaintiff	}
v.	Civil Action No.
Defendant)
WAIVER OF THE S	SERVICE OF SUMMONS
То:	
(Name of the plaintiff's attorney or unrepresented plaint	iiii)
I, or the entity I represent, agree to save the experimental understand that I, or the entity I represent, with jurisdiction, and the venue of the action, but that I waive I also understand that I, or the entity I represent, and the venue of the action, but that I waive	rill keep all defenses or objections to the lawsuit, the court's any objections to the absence of a summons or of service. The service of a motion under Rule 12 within when this request was sent (or 90 days if it was sent outside the
Date:	
	Signature of the attorney or unrepresented party
Printed name of party waiving service of summons	Printed name
	Address
	E-mail address
	Telephone number
Duty to Avoid Unnecessar	v Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does *not* include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.

for the

Plaintiff v. Defendant)) Civil Action N))	lo.	
APPLICATION TO PROCEED IN DISTRICT CO (Shor	OURT WITHOUT t Form)	PREPAYING FEES OR	COSTS
I am a plaintiff or petitioner in this case and declare that I am entitled to the relief requested.	that I am unable to	pay the costs of these proc	eedings and
In support of this application, I answer the followin	g questions under p	enalty of perjury:	
If employed there, or have an account in the institution, I has appropriate institutional officer showing all receipts, expendinstitutional account in my name. I am also submitting a sin incarcerated during the last six months. 2. If not incarcerated. If I am employed, my employed.	ditures, and balance milar statement fron	s during the last six months n any other institution wher	for any
My gross pay or wages are: \$, and my (specify pay period)	y take-home pay or	wages are: \$	per
3. Other Income. In the past 12 months, I have recent	ived income from the	ne following sources (check a	all that apply);
 (a) Business, profession, or other self-employment (b) Rent payments, interest, or dividends (c) Pension, annuity, or life insurance payments (d) Disability, or worker's compensation payments (e) Gifts, or inheritances (f) Any other sources 	☐ Yes	□ No□ No□ No□ No□ No□ No	

If you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.

	4.	Amount of money that I have in cash or in a checking or savings account: \$
thing of value):		Any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or alue that I own, including any item of value held in someone else's name (describe the property and its approximate
the amou		Any housing, transportation, utilities, or loan payments, or other regular monthly expenses (describe and provide of the monthly expense):
with ead		Names (or, if under 18, initials only) of all persons who are dependent on me for support, my relationship person, and how much I contribute to their support:
	8.	Any debts or financial obligations (describe the amounts owed and to whom they are payable):
stateme		eclaration: I declare under penalty of perjury that the above information is true and understand that a false may result in a dismissal of my claims.
Date:	_	Applicant's signature
		Printed name

RULES OF CIVIL PROCEDURE

FOR THE

UNITED STATES DISTRICT COURTS 1

Effective September 16, 1938, as amended to December 1, 2008

TITLE I. SCOPE OF RULES; FORM OF ACTION

Rule 1. Scope and Purpose

These rules govern the procedure in all civil actions and proceedings in the United States district courts, except as stated in Rule 81. They should be construed and administered to secure the just, speedy, and inexpensive determination of every action and proceeding.

(As amended Dec. 29, 1948, eff. Oct. 20, 1949; Feb. 28, 1966, eff. July 1, 1966; Apr. 22, 1993, eff. Dec. 1, 1993; Apr. 30, 2007, eff. Dec. 1, 2007.)

Rule 2. One Form of Action

There is one form of action — the civil action.

(As amended Apr. 30, 2007, eff. Dec. 1, 2007.)

TITLE II. COMMENCING AN ACTION; SERVICE OF PROCESS, PLEADINGS, MOTIONS, AND ORDERS

Rule 3. Commencing an Action

A civil action is commenced by filing a complaint with the court.

(As amended Apr. 30, 2007, eff. Dec. 1, 2007.)

Rule 4. Summons

- (a) CONTENTS; AMENDMENTS.
 - (1) Contents. A summons must:
 - (A) name the court and the parties;
 - (B) be directed to the defendant;
 - (C) state the name and address of the plaintiff's attorney or if unrepresented of the plaintiff;
 - (D) state the time within which the defendant must appear and defend;
 - (E) notify the defendant that a failure to appear and defend will result in a default judgment against the defendant for the relief demanded in the complaint;
 - (F) be signed by the clerk; and
 - (G) bear the court's seal.
 - (2) Amendments. The court may permit a summons to be amended.

¹Title amended December 29, 1948, effective October 20, 1949.

- (b) ISSUANCE. On or after filing the complaint, the plaintiff may present a summons to the clerk for signature and seal. If the summons is properly completed, the clerk must sign, seal, and issue it to the plaintiff for service on the defendant. A summons or a copy of a summons that is addressed to multiple defendants must be issued for each defendant to be served.
 - (c) SERVICE.
 - (1) In General. A summons must be served with a copy of the complaint. The plaintiff is responsible for having the summons and complaint served within the time allowed by Rule 4(m) and must furnish the necessary copies to the person who makes service.
 - (2) By Whom. Any person who is at least 18 years old and not a party may serve a summons and complaint.
 - (3) By a Marshal or Someone Specially Appointed. At the plaintiff's request, the court may order that service be made by a United States marshal or deputy marshal or by a person specially appointed by the court. The court must so order if the plaintiff is authorized to proceed in forma pauperis under 28 U.S.C. § 1915 or as a seaman under 28 U.S.C. § 1916.
 - (d) WAIVING SERVICE.
 - (1) Requesting a Waiver. An individual, corporation, or association that is subject to service under Rule 4(e), (f), or (h) has a duty to avoid unnecessary expenses of serving the summons. The plaintiff may notify such a defendant that an action has been commenced and request that the defendant waive service of a summons. The notice and request must:
 - (A) be in writing and be addressed:
 - (i) to the individual defendant; or
 - (ii) for a defendant subject to service under Rule 4(h), to an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process:
 - (B) name the court where the complaint was filed;
 - (C) be accompanied by a copy of the complaint, 2 copies of a waiver form, and a prepaid means for returning the form;
 - (D) inform the defendant, using text prescribed in Form 5, of the consequences of waiving and not waiving service;
 - (E) state the date when the request is sent;
 - (F) give the defendant a reasonable time of at least 30 days after the request was sent or at least 60 days if sent to the defendant outside any judicial district of the United States to return the waiver; and
 - (G) be sent by first-class mail or other reliable means.
 - (2) Failure to Waive. If a defendant located within the United States fails, without good cause, to sign and return a waiver requested by a plaintiff located within the United States, the court must impose on the defendant:
 - (A) the expenses later incurred in making service; and
 - (B) the reasonable expenses, including attorney's fees, of any motion required to collect those service expenses.
 - (3) Time to Answer After a Waiver. A defendant who, before being served with process, timely returns a waiver need not

serve an answer to the complaint until 60 days after the request was sent — or until 90 days after it was sent to the defendant outside any judicial district of the United States.

(4) Results of Filing a Waiver. When the plaintiff files a waiver, proof of service is not required and these rules apply as if a summons and complaint had been served at the time of filing the waiver.

(5) Jurisdiction and Venue Not Waived. Waiving service of a summons does not waive any objection to personal jurisdiction or to venue.

- (e) SERVING AN INDIVIDUAL WITHIN A JUDICIAL DISTRICT OF THE UNITED STATES. Unless federal law provides otherwise, an individual other than a minor, an incompetent person, or a person whose waiver has been filed may be served in a judicial district of the United States by:
 - (1) following state law for serving a summons in an action brought in courts of general jurisdiction in the state where the district court is located or where service is made; or

(2) doing any of the following:

(A) delivering a copy of the summons and of the com-

plaint to the individual personally;

(B) leaving a copy of each at the individual's dwelling or usual place of abode with someone of suitable age and discretion who resides there; or

(C) delivering a copy of each to an agent authorized by appointment or by law to receive service of process.

- (f) SERVING AN INDIVIDUAL IN A FOREIGN COUNTRY. Unless federal law provides otherwise, an individual other than a minor, an incompetent person, or a person whose waiver has been filed may be served at a place not within any judicial district of the United States:
 - (1) by any internationally agreed means of service that is reasonably calculated to give notice, such as those authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents;

(2) if there is no internationally agreed means, or if an international agreement allows but does not specify other means, by a method that is reasonably calculated to give notice:

- (A) as prescribed by the foreign country's law for service in that country in an action in its courts of general jurisdiction;
- (B) as the foreign authority directs in response to a letter rogatory or letter of request; or
 - (C) unless prohibited by the foreign country's law, by:(i) delivering a copy of the summons and of the com-

plaint to the individual personally; or

- (ii) using any form of mail that the clerk addresses and sends to the individual and that requires a signed receipt; or
- (3) by other means not prohibited by international agreement, as the court orders.
- (g) SERVING A MINOR OR AN INCOMPETENT PERSON. A minor or an incompetent person in a judicial district of the United States must be served by following state law for serving a summons or like process on such a defendant in an action brought in the

courts of general jurisdiction of the state where service is made. A minor or an incompetent person who is not within any judicial district of the United States must be served in the manner prescribed by Rule 4(f)(2)(A), (f)(2)(B), or (f)(3).

- (h) SERVING A CORPORATION, PARTNERSHIP, OR ASSOCIATION. Unless federal law provides otherwise or the defendant's waiver has been filed, a domestic or foreign corporation, or a partnership or other unincorporated association that is subject to suit under a common name, must be served:
 - (1) in a judicial district of the United States:
 - (A) in the manner prescribed by Rule 4(e)(1) for serving an individual: or
 - (B) by delivering a copy of the summons and of the complaint to an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process and if the agent is one authorized by statute and the statute so requires by also mailing a copy of each to the defendant; or
 - (2) at a place not within any judicial district of the United States, in any manner prescribed by Rule 4(f) for serving an individual, except personal delivery under (f)(2)(C)(i).
- (i) SERVING THE UNITED STATES AND ITS AGENCIES, CORPORA-TIONS, OFFICERS, OR EMPLOYEES.
 - (1) United States. To serve the United States, a party must:
 (A)(i) deliver a copy of the summons and of the complaint to the United States attorney for the district where the action is brought or to an assistant United States attorney or clerical employee whom the United States attorney designates in a writing filed with the court clerk or
 - (ii) send a copy of each by registered or certified mail to the civil-process clerk at the United States attorney's office:
 - (B) send a copy of each by registered or certified mail to the Attorney General of the United States at Washington, D.C.; and
 - (C) if the action challenges an order of a nonparty agency or officer of the United States, send a copy of each by registered or certified mail to the agency or officer.
 - (2) Agency; Corporation; Officer or Employee Sued in an Official Capacity. To serve a United States agency or corporation, or a United States officer or employee sued only in an official capacity, a party must serve the United States and also send a copy of the summons and of the complaint by registered or certified mail to the agency, corporation, officer, or employee.
 - (3) Officer or Employee Sued Individually. To serve a United States officer or employee sued in an individual capacity for an act or omission occurring in connection with duties performed on the United States' behalf (whether or not the officer or employee is also sued in an official capacity), a party must serve the United States and also serve the officer or employee under Rule 4(e), (f), or (g).
 - (4) Extending Time. The court must allow a party a reasonable time to cure its failure to:

- (A) serve a person required to be served under Rule 4(i)(2), if the party has served either the United States attorney or the Attorney General of the United States; or
- (B) serve the United States under Rule 4(i)(3), if the party has served the United States officer or employee.
- (j) SERVING A FOREIGN, STATE, OR LOCAL GOVERNMENT.
 - (1) Foreign State. A foreign state or its political subdivision, agency, or instrumentality must be served in accordance with 28 U.S.C. § 1608.
 - (2) State or Local Government. A state, a municipal corporation, or any other state-created governmental organization that is subject to suit must be served by:
 - (A) delivering a copy of the summons and of the complaint to its chief executive officer; or
 - (B) serving a copy of each in the manner prescribed by that state's law for serving a summons or like process on such a defendant.
- (k) TERRITORIAL LIMITS OF EFFECTIVE SERVICE.
 - (1) In General. Serving a summons or filing a waiver of service establishes personal jurisdiction over a defendant:
 - (A) who is subject to the jurisdiction of a court of general jurisdiction in the state where the district court is located:
 - (B) who is a party joined under Rule 14 or 19 and is served within a judicial district of the United States and not more than 100 miles from where the summons was issued: or
 - (C) when authorized by a federal statute.
 - (2) Federal Claim Outside State-Court Jurisdiction. For a claim that arises under federal law, serving a summons or filing a waiver of service establishes personal jurisdiction over a defendant if:
 - (A) the defendant is not subject to jurisdiction in any state's courts of general jurisdiction; and
 - (B) exercising jurisdiction is consistent with the United States Constitution and laws.
- (l) PROVING SERVICE.
 - (1) Affidavit Required. Unless service is waived, proof of service must be made to the court. Except for service by a United States marshal or deputy marshal, proof must be by the server's affidavit.
 - (2) Service Outside the United States. Service not within any judicial district of the United States must be proved as follows:
 - (A) if made under Rule 4(f)(1), as provided in the applicable treaty or convention; or
 - (B) if made under Rule 4(f)(2) or (f)(3), by a receipt signed by the addressee, or by other evidence satisfying the court that the summons and complaint were delivered to the addressee.
 - (3) Validity of Service; Amending Proof. Failure to prove service does not affect the validity of service. The court may permit proof of service to be amended.
- (m) TIME LIMIT FOR SERVICE. If a defendant is not served within 120 days after the complaint is filed, the court on motion or on

its own after notice to the plaintiff — must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period. This subdivision (m) does not apply to service in a foreign country under Rule 4(f) or 4(j)(1).

(n) Asserting Jurisdiction over Property or Assets.

(1) Federal Law. The court may assert jurisdiction over property if authorized by a federal statute. Notice to claimants of the property must be given as provided in the statute or by

serving a summons under this rule.

(2) State Law. On a showing that personal jurisdiction over a defendant cannot be obtained in the district where the action is brought by reasonable efforts to serve a summons under this rule, the court may assert jurisdiction over the defendant's assets found in the district. Jurisdiction is acquired by seizing the assets under the circumstances and in the manner provided by state law in that district.

(As amended Jan. 21, 1963, eff. July 1, 1963; Feb. 28, 1966, eff. July 1, 1966; Apr. 29, 1980, eff. Aug. 1, 1980; Jan. 12, 1983, eff. Feb. 26, 1983; Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 22, 1993, eff. Dec. 1, 1993; Apr. 17, 2000, eff. Dec. 1, 2000; Apr. 30, 2007, eff. Dec. 1, 2007.)

Rule 4.1. Serving Other Process

(a) IN GENERAL. Process — other than a summons under Rule 4 or a subpoena under Rule 45 — must be served by a United States marshal or deputy marshal or by a person specially appointed for that purpose. It may be served anywhere within the territorial limits of the state where the district court is located and, if authorized by a federal statute, beyond those limits. Proof of service must be made under Rule 4(l).

(b) ENFORCING ORDERS: COMMITTING FOR CIVIL CONTEMPT. An order committing a person for civil contempt of a decree or injunction issued to enforce federal law may be served and enforced in any district. Any other order in a civil-contempt proceeding may be served only in the state where the issuing court is located or elsewhere in the United States within 100 miles from where the

order was issued.

(As added Apr. 22, 1993, eff. Dec. 1, 1993; amended Apr. 30, 2007, eff. Dec. 1, 2007.)

Rule 5. Serving and Filing Pleadings and Other Papers

(a) SERVICE: WHEN REQUIRED.

(1) In General. Unless these rules provide otherwise, each of the following papers must be served on every party:

(A) an order stating that service is required;

- (B) a pleading filed after the original complaint, unless the court orders otherwise under Rule 5(c) because there are numerous defendants;
- (C) a discovery paper required to be served on a party, unless the court orders otherwise;
- (D) a written motion, except one that may be heard exparte; and
- (E) a written notice, appearance, demand, or offer of judgment, or any similar paper.