

# UNITED STATES DISTRICT COURT DISTRICT OF CONNECTICUT

## INFORMATION AND INSTRUCTIONS FOR SERVING A COMPLAINT

If you have paid the filing fee, you are responsible for serving your complaint or petition on the named defendants. If the defendant is an individual, corporation or association, the Federal Rules of Civil Procedure permit you to request that the defendant waive personal service of the complaint. Section I describes the procedure to follow when you are requesting that the defendant waive service.

All other defendants, including the United States and any federal government agency, as well as any defendant who declines to waive service, must be personally served. Section II describes this procedure.

### I. Waiver of Service of the Complaint

1. To request waiver of service of the complaint, you must complete two forms. These forms and instructions on how to complete the forms are available in the Clerk's Office. The first form is entitled Notice of Lawsuit and Request for Waiver of Service of Summons. The second form is entitled Waiver of Service of Summons. You must complete both forms for each defendant in each capacity in which that defendant is being sued. For example, if you are suing a John Smith in his individual capacity and his official capacity, you must complete two sets of forms for Mr. Smith. **Notice of Lawsuit and Waiver of Service of Summons forms may not be used when the defendant is the United States, a federal government agency or a federal government official or employee sued in his official capacity.** You may request waiver of service of summons from a federal government official or employee sued in his individual capacity. Please note, however, that if the federal government official or employee waives service of summons, you still must serve the United States as provided in Section II (3)(c) to complete service on that defendant in his individual capacity.

2. To request waiver of service from a defendant, you must send the following items to that defendant by first class mail or by other reliable means:

- a. the properly completed Notice of Lawsuit and Request for Waiver of Service of Summons and Waiver of Service of Summons forms,
- b. an extra copy of the forms for the defendant to retain,
- c. a self-addressed stamped envelope so the defendant can return the original notice and signed waiver of service form to you, and
- d. a copy of the complaint including any exhibits or attachments and any other motions that you filed with the complaint.

3. When you receive the signed forms from the defendant, you must file the **originals** with the court. This will inform the court that the defendant has waived service of the complaint and that you have fulfilled your requirement to effect service of the complaint within 120 days of the date the complaint was filed or, if you are incarcerated, the date upon which the court ordered you to serve the complaint.

4. If the defendant fails to return the waiver form within the time specified in the Notice of Lawsuit and Request for Waiver of Service of Summons form, you must personally serve that defendant by following the instructions in section II.

## II. Personal Service of the Complaint

1. If the complaint must be personally served on a defendant, you must first obtain a summons form from the court, complete the form and have the summons **issued** by the Clerk's Office. You will need one summons for each defendant in each capacity in which that defendant is named. For example, if you are suing a John Smith in his individual capacity and his official capacity, you will need two summons forms for Mr. Smith.

2. Rule 4(c)(2) of the Federal Rules of Civil Procedure provides: "Service may be effected by any person who is not a party and who is at least 18 years of age." Thus, you cannot personally serve the complaint. You must make arrangements to have your complaint served by a state marshal, process server or other indifferent person over the age of eighteen.

3. The rules regarding service of the summons on various categories of defendant are contained in Rule 4(e) - 4(j) of the Federal Rules of Civil Procedure. If the defendant in your case is not described below, you should consult Rule 4 for specific information on service of that defendant.

- a. **Individual located within the United States:** The person making service may (1) deliver a copy of the summons, complaint and any attachments to the individual personally **or** (2) leave a copy of the summons, complaint and any attachments at the individual's home with some person of suitable age and discretion who also lives there **or** (3) deliver a copy of the summons, complaint and any attachments to an agent authorized by law to accept service on behalf of the defendant. In addition, he may serve the summons and complaint as required by Connecticut law or the law of the state in which the defendant is located.
- b. **Domestic Corporation, Partnership or Unincorporated Association located within the United States:** The person making service should deliver a copy of the summons, complaint and any attachments to an officer, managing or general agent or any other agent authorized, by appointment or by law, to receive service. If this agent is authorized to accept service by law, you, or the person making service, must comply with all provisions of that law. For example, if the law requires that a copy of the summons, complaint and any attachments be mailed to the defendant, you must mail these copies. This compliance with the statute is in addition to the method of service described above. In the alternative, service may be effected in accordance with Connecticut law or the law of the state in which the defendant is located.

- c. **United States:** The person making service should deliver three copies of the summons, complaint and any attachments to the United States Attorney for the District of Connecticut, at any one of the three offices: 157 Church Street, 23<sup>rd</sup> Floor, New Haven, Connecticut 06510; 450 Main Street, Room 328, Hartford, Connecticut 06103; or 915 Lafayette Boulevard, Bridgeport, Connecticut 06604; **and** send two copies of the summons, complaint and any attachments by registered or certified mail to the Attorney General of the United States at 10<sup>th</sup> and Constitution Avenue, N.W., Washington, D.C. 20530. In addition, if your complaint challenges the validity of an order issued by a federal government officer or agency, which is not included as a defendant, you must send a copy of the summons, complaint and any attachments by registered or certified mail to the officer or agency.
- d. **Federal Government Agency or Corporation or Federal Government Official or Employee who is sued in his Official Capacity:** The person making service should serve the United States as described in section (c) above, **and** send a copy of the summons, complaint and any attachments by registered or certified mail to the officer, employee, agency or corporation. Thus, if you are suing a federal government agency or corporation, or if you are suing a federal government official or employee in his official capacity only, you will need six sets of copies for that defendant.
- e. **Federal Government Official or Employee sued in his Individual Capacity:** The person making service should serve the United States as described in section (c) above **and** serve the individual as described in section (a) above. Thus, if you are suing a federal government official or employee in his individual capacity only, you will need six sets of copies for that defendant. If you are suing a federal government official or employee in both his individual and official capacities, you will need seven sets of copies for that defendant.
- f. **State or Municipality or Other State or Local Government Entity that is subject to suit in federal court:** The person making service should deliver a copy of the summons, complaint and any attachments to the chief executive officer, **or** follow the instructions provided in state law for serving this entity.

4. After the defendant has been served, the person who effected service must execute an affidavit, or complete the return of service and declaration on the back of the original summons. You must file the affidavit or return with the court to inform the court that you have fulfilled your requirement to effect service of the complaint within 120 days of the date the complaint was filed or, if you are incarcerated, the date upon which the court ordered that the complaint be served.