

NOTICE TO ATTORNEYS

AMENDMENT TO RULE 4 - SUMMONS Federal Rules of Civil Procedure

WAIVER OF SERVICE OF SUMMONS

Rule 4 (d) provides that a plaintiff may send a notice of commencement of action and a request for waiver to the defendant. When the defendant signs the waiver and it is filed with the clerk, the action proceeds as if service of summons and complaint had been made. If the waiver is not timely returned, plaintiff must serve process. A defendant who fails to waive service of summons will be assessed the costs subsequently incurred in effecting service on the defendant.

The ability to serve the summons by mail with a notice and acknowledgement has been eliminated.

EFFECT OF WAIVER OF SERVICE

If the defendant timely signs and returns the waiver of service of summons, the action shall proceed as if summons and complaint had been served at the time of the filing of the waiver. By filing a waiver, a defendant does not waive any objection to venue or jurisdiction of the court over the person of the defendant.

When a waiver has been filed, the time for response to the complaint is **60 days** (rather than 20 days) from the date the notice and request was sent to defendant. (Rule 4(d)(3) and Rule 12(a)(1)(B)).

Sample copies of the above forms are available from the Clerk, U.S. District Court.