

APPENDIX OF FORMS

FORM 1A. NOTICE OF LAWSUIT AND REQUEST FOR WAIVER OF SERVICE
OF SUMMONS

To: [Fill in the name of the person to be served by a summons if service is necessary], on behalf of _____ [Name of any entity on whose behalf that person may be notified of the action].

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 [name of district court]. It has been assigned docket number _____.

The purpose of this Notice and Request is to save the cost of service on you of a summons in that action. I hereby request that you sign the enclosed waiver. The cost of service will be avoided if I receive a signed copy of this form before _____ [at least 30 days after the date designated below as the date on which this Notice and Request is sent, or 60 days if addressee is not in any judicial district of the United States]. 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 this form, it will be filed with the court and no summons will be served on you, but the action will proceed as if you had been served on the date of filing. You will not be required to answer the complaint until _____ [60 days from the date designated below as the date on which this notice is sent, or 90 days if the addressee is not in any judicial district].

If you do not comply, I will effect service in a manner authorized by the Federal Rules of Civil Procedure and will ask the court to require you [or the party on whose behalf you are served] to pay the full costs of such service. In that connection, please read the statement of your duty to waive the service of the summons which is set forth in officially prescribed language on the reverse side [or at the foot] of the waiver form.

I affirm that this request is being sent to you on behalf of the claimant this _____ day of _____, 19____.

Signature of Plaintiff's Attorney

FORM 1B. WAIVER OF SERVICE OF SUMMONS

To: [plaintiff's name and address]

I acknowledge receipt of your request that I waive service of a summons in the action of _____ [caption of action] which is case number _____ [docket number] on the docket of the United States District Court for the _____ [name of district]. I have also received a

copy of the complaint in the action, two copies of an instrument by which I can waive service of a summons and which formally explains the Duty to Waive Service, 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 on me of a summons and an additional copy of the complaint in this lawsuit and I do not require that you serve me in the manner provided by Rule 4.

I retain any defenses or objections I [or the entity on whose behalf I am addressed] may have to the lawsuit or the jurisdiction or venue of the court except any defense 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 addressed] if I do not answer the complaint within the time allowed by Rule 12(a) of the Federal Rules of Civil Procedure, but that on no account will a judgment be entered before the date specified for my answer in your request for this waiver.

Signature of Addressee

Date: _____

Relationship to Defendant, if responding on behalf of an entity: _____

To be printed on reverse side of the waiver form provided by the Administrative Office of the United States Courts, or set forth at the foot of the waiver instrument if the form is not used:

THE DUTY TO WAIVE SERVICE OF A SUMMONS

Rule 4 of the Federal Rules of Civil Procedure requires all parties to cooperate in saving the cost of service of the summons and complaint. A defendant who is notified of an action and asked for a waiver of service of a summons will be required to bear the cost of such service unless good cause be shown for the failure to sign such a 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 your person or property. A party who waives service of the summons retains any defenses or objections except any that might relate to the summons or to the service of the

summons and complaint, and may later object to the jurisdiction of the court or the place where the action has been brought.

A defendant who waives service of a summons must serve on the plaintiff an answer to the complaint. The answer should also be filed with the court. If the answer is not served within the time allowed by Rule 12(a), a default judgment may be taken against that defendant. A defendant is allowed more time to answer if service is waived than if the summons is actually served.

Form 18-A. [Abrogated]