

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN**

# **SERVING YOUR COMPLAINT**



**What, When, Who & How**

## What does service mean?

The plaintiff is responsible for notifying the defendant(s) that a complaint has been filed against them in Federal Court. This process is called “**service**” or “**serving the defendant(s)**.” Each defendant must receive an issued summons (signed and sealed by the Court) and a copy of the complaint.

A summons is an official notice from the Court notifying the defendant(s) they are being sued. The summons also informs the defendant(s) that they must answer the complaint in a certain amount of time.

If the complaint is not properly served on the defendant(s), the case may not proceed. Rule 4 of the Federal Rules of Civil Procedure includes the requirements for serving the complaint.

## When must it be done?

Under Fed.R.Civ.P. 4, the complaint must be served 90 days from the date it was filed with the court, on the defendant(s) in your case.

## Who must be served?

All defendant(s) named in your complaint must be served. **The clerk will only issue summons for parties named as defendants in your complaint.**



If you are suing the U.S. Government, its agencies or employees, Rule 4 of the Federal Rules of Civil Procedure includes a list of additional parties that must be served.

## How can the complaint be served?

### 1. Personal Service

A person who is not a party to the case and is over the age of 18, can personally deliver or serve the summons and complaint on the defendant(s).

### 2. By Mail

The summons and complaint can be served by sending them by certified mail with **restricted delivery and return receipt**. A “green card” (PS Form 3811) will be mailed to the plaintiff, to show proof of service. The “green card” or a copy, must be filed with the Court.



### 3. Waiver of Service

By asking the defendant to waive formal service by sending them a **Notice of Lawsuit and Request to Waive Service of a Summons and a Waiver of the Service of Summons**. If the defendant waives service, they will return the signed Waiver of the Service of Summons form to plaintiff.

### 4. Service by U.S. Marshal

If you request to have the payment of the filing fee waived by the Court and

1.) The filing fee is waived

and

2.) Your complaint is not subject to dismissal,

the Court will direct the U.S. Marshal to serve the defendant(s) with the summons and complaint without prepayment of costs by you.



Although the filing fees may be waived, the U.S. Marshal **may** require that the costs of serving the summons and complaint be paid by you.

## **SERVING IT YOURSELF**

You will be responsible for serving the summons and complaint if:

You paid the filing fee.

**or**

You requested the Court waive prepayment of the filing fee and have filed the ***Plaintiff's Notice Waiving Service by U.S. Marshal*** form with your complaint.

## **SERVICE BY THE U.S. MARSHAL**

If you requested that the Court waive prepayment of the filing fee and the request **was granted**, the Court will order that the United States Marshal serve your complaint.



Attachments/exhibits to the complaint must also be served.

## AFTER THE COMPLAINT HAS BEEN SERVED

It is the plaintiff’s responsibility to notify the Court that the defendant(s) have been served with the complaint by **filing a proof of service**.



**If the summons and complaint were served by Certified Mail:**

If U.S. Marshal or yourself, served the summons and complaint by certified mail, the green certified return receipt card (PS Form 3811) will be returned for each defendant that received the summons and complaint.


Complete the ***Proof of Service*** form and attach the return receipt card or a copy, to the form and file it with the Clerk’s Office.

**If the summons and complaint were served by Personal Service:**

The person who serves the summons and complaint on the defendant must complete the Return of Service section on the second page of the summons.

The plaintiff must file the ***Summons and Complaint Return of Service*** (2<sup>nd</sup> page of summons form) with the Clerk’s Office.



 **The defendant must respond** to the complaint within **21 days** after receiving the summons and complaint or **60 days if it is the United States, United States Agency, officer or employee**, pursuant to Rule 12 of the Federal Rules of Civil Procedure.

# SERVICE FORMS INSTRUCTIONS



## SUMMONS FORM INSTRUCTIONS

A summons is an official notice from the Court notifying the defendant they are being sued. The summons also informs the defendant that they must answer the complaint in a certain amount of time.

**Three (3) copies of the summons for each defendant** being sued must be completed and submitted to the Court.

Use the example below as a guide to complete the summons form:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT  
for the  
Eastern District of Michigan

<p><b>JANE SMITH,</b></p>	)	
	)	<div style="background-color: yellow; padding: 2px; display: inline-block; font-weight: bold;">CASE NUMBER</div>
<div style="background-color: yellow; padding: 2px; display: inline-block; font-weight: bold;">PLAINTIFF NAME</div>	) <i>Plaintiff,</i>	Civil Action No. <b>18-12345</b>
v.	)	
	)	<div style="background-color: yellow; padding: 2px; display: inline-block; font-weight: bold;">JUDGE</div>
<p><b>JOHN DOE,</b></p>	)	Hon. <b>ROBERT WILLIAMS</b>
<div style="background-color: yellow; padding: 2px; display: inline-block; font-weight: bold;">DEFENDANT NAME</div>	) <i>Defendant.</i>	

SUMMONS IN A CIVIL ACTION

To: **JOHN DOE** NAME OF DEFENDANT

If suing more than one defendant, change the name on each summons

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff’s attorney, whose name and address are:

PLAINTIFF'S NAME & ADDRESS

**JANE SMITH  
456 LINCOLN  
DETROIT, MI 48226**

## USM 285 FORM INSTRUCTIONS

The USM 285 form is used to request service of the summons and complaint by the U.S. Marshal Service. **Use this form only if the Court has directed the U.S. Marshal to serve your complaint.**

**2 copies of the USM 285 form for each defendant** being sued must be submitted to the Court.

The summons and complaint will be served by U.S. Postal Service Certified Mail. The U.S. Marshal Service will return the receipt – “green card” (PS Form 3811) to the plaintiff after service is complete.

The “green card” or a copy, must be filed with the Court. See instructions for **Proof of Service**.



Although the filing fees may be waived, the U.S. Marshal may require that the costs of serving the summons and complaint be paid by the plaintiff.

**Use the example below as a guide to complete the USM 285 form:**

U.S. Department of Justice United States Marshals Service		<b>PROCESS RECEIPT AND RETURN</b> <i>See "Instructions for Service of Process by U.S. Marshal"</i>	
PLAINTIFF	<b>JANE SMITH</b>	<b>PLAINTIFF NAME</b>	COURT CASE NUMBER <b>18-12345</b> <b>CASE NUMBER</b>
DEFENDANT	<b>JOHN DOE</b>	<b>DEFENDANT NAME</b>	TYPE OF PROCESS <b>SUMMONS &amp; COMPLAINT</b>
SERVE AT	NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC. TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN <b>JOHN DOE</b> <b>NAME OF DEFENDANT - If suing more than one defendant, change name and address on each form</b>		
	ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code) <b>789 LEFT LANE, DETROIT, MI 48531</b>		<b>DEFENDANT'S ADDRESS</b>
SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW		Number of process to be served with this Form 285	<b>1</b>
<b>PLAINTIFF'S NAME &amp; ADDRESS</b> <b>JANE SMITH</b> <b>456 LINCOLN</b> <b>DETROIT, MI 48226</b>		Number of parties to be served in this case	<b>1</b> ← <b>TOTAL NUMBER OF DEFENDANTS</b>
SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Address, All Telephone Numbers, and Estimated Times Available for Service):		Check for service on U.S.A.	←
		<b>CHECK BOX FOR PLAINTIFF</b>	<b>Check this box if any of your defendants is the U.S. Government</b>
Signature of Attorney other Originator requesting service on behalf of:	<input checked="" type="checkbox"/> PLAINTIFF <input type="checkbox"/> DEFENDANT	TELEPHONE NUMBER	DATE
<b>JANE SMITH</b>	<b>PLAINTIFF SIGNATURE</b>	<b>TELEPHONE</b>	<b>DATE</b>
SPACE BELOW FOR USE OF U.S. MARSHAL ONLY - DO NOT WRITE BELOW THIS LINE			



**NOTICE OF A LAWSUIT AND REQUEST TO WAIVE SERVICE OF A SUMMONS**  
**and**  
**WAIVER OF THE SERVICE OF SUMMONS FORM INSTRUCTIONS**

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The *Notice of a Lawsuit and Request to Waive Service of a Summons* is used to notify the defendant(s) they are being sued. It also requests that the defendant(s) waive formal service of the summons and complaint.

If the defendant **waives** service, **they will return the signed** *Waiver of the Service of Summons* form to plaintiff. The defendant must file a response to the complaint within 60 days from the date the notice was sent.

If the defendant **does not return a signed waiver**, the plaintiff must formally serve the summons and complaint.



The Notice of a Lawsuit and Request cannot be used if suing the United States (its agencies, corporations, or officers) or a state, local or foreign government.

**Step by Step Instructions:**

1. Complete the *Notice of a Lawsuit and Request to Waive Service of a Summons* form.
2. Complete the *Waiver of the Service of Summons* form.
3. Send to the defendant by regular mail or other reliable means:
  - 1 copy of the Notice and Complaint
  - 2 copies of the Waiver
4. Stamped, self-addressed envelope.
5. If the defendant agrees to waive service, they will return the signed waiver to plaintiff in the provided envelope. The plaintiff must file a copy of the signed waiver with the Court.

Use the example below as a guide to complete the *Notice of a Lawsuit and Request to Waive Service of a Summons* and *Waiver of the Service of Summons* forms.

### Notice of a Lawsuit and Request to Waive Service of a Summons

 Don't forget to include a Stamped, Self-Addressed Envelope

AO 398 (Rev. 01/09) Notice of a Lawsuit and Request to Waive Service of a Summons

UNITED STATES DISTRICT COURT  
for the  
EASTERN DISTRICT OF MICHIGAN

JANE SMITH **PLAINTIFF NAME**  
*Plaintiff*

JOHN DOE **DEFENDANT NAME**  
*Defendant*

Civil Action No. 18-12345 **CASE NUMBER**

NOTICE OF A LAWSUIT AND REQUEST TO WAIVE SERVICE OF A SUMMONS

To: JOHN DOE **NAME OF DEFENDANT - If suing more than one defendant, change name and address on each form**

*(Name of the defendant or - if the defendant is an entity, the name of the entity)*

Why are you getting this?

A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above. A copy of the complaint is attached. **Number of days the defendant has to return the waiver of service**

This is not a summons, or an order, and you do not need to file an answer. To avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within **45** days (give at least 30 days, or at least 60 days if the defendant is outside any judicial district of the United States) from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

What happens next?

If you return the signed waiver, I will file it with the court. The action will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you and you will have 60 days from the date this notice is sent (see the date below) to answer the complaint (or 90 days if this notice is sent to you outside a judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you, or the entity you represent, to pay the expenses of making service.

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 below.

Date: 1/1/2019 **DATE REQUEST SENT**

*Jane Smith*  
*Signature of the attorney or unrepresented party*

Jane Smith **PLAINTIFF NAME**  
*Printed name*

456 Lincoln **PLAINTIFF ADDRESS**  
*Address*

Detroit, MI 48226  
*E-mail address*

(313) 777-7777 **PLAINTIFF TELEPHONE**  
*Telephone number*



### Waiver of the Service of Summons

(Send 2 copies to the defendant)

AO 399 (01/09) Waiver of the Service of Summons

UNITED STATES DISTRICT COURT  
for the  
EASTERN DISTRICT OF MICHIGAN

JANE SMITH **PLAINTIFF NAME**  
*Plaintiff*

JOHN DOE **DEFENDANT NAME**  
*Defendant*

Civil Action No. 18-12345 **CASE NUMBER**

WAIVER OF THE SERVICE OF SUMMONS

To: JOHN DOE **DEFENDANT NAME OR NAME OF PLAINTIFF'S ATTORNEY**

*(Name of the plaintiff's attorney or unrepresented plaintiff)*

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

I understand that I, **Date Notice & Request Sent** **Date Notice & Request Sent** defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, or that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from 1/1/2019 the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

## PLAINTIFF’S NOTICE WAIVING SERVICE BY U.S. MARSHAL FORM INSTRUCTIONS

The *Plaintiff’s Notice Waiving Service by U.S. Marshal* form is used if you:

1. Have asked to have the filing fee waived and;
2. **Do not want** the U.S. Marshal to serve the defendant(s) with the summons and complaint and you want to serve the defendant(s) yourself.

If the Court waives the prepayment of the filing fee, you will be responsible for serving the summons and complaint on the defendant(s).

Use the example below as guide to complete the *Plaintiff’s Notice Waiving Service by U.S. Marshal* form.

MIE (Rev. 11/17) Plaintiff's Notice Waiving Service by U.S. Marshal

UNITED STATES DISTRICT  
COURT EASTERN DISTRICT  
OF MICHIGAN

JANE SMITH, **PLAINTIFF NAME**  
Plaintiff(s), Case No. **18-12345** **CASE NUMBER**

v. Honorable **ROBERT WILLIAMS** **JUDGE**

JOHN DOE, **DEFENDANT NAME**  
Defendant(s).

**PLAINTIFF’S NOTICE WAIVING SERVICE BY U.S. MARSHAL**

If my application to proceed without paying fees or costs is granted, I waive service by the U.S. Marshal and take responsibility for service of my complaint.

Date: **January 1, 2019** **DATE**

JANE SMITH **PLAINTIFF SIGNATURE**  
Signature of Applicant

**JANE SMITH** **PLAINTIFF NAME**  
Printed Name

456 LINCOLN **PLAINTIFF ADDRESS**  
Address

DETROIT, MI 48226  
City, State, Zip Code **PLAINTIFF TELEPHONE**

(313) 777-7777  
Telephone Number

## PROOF OF SERVICE FORM INSTRUCTIONS

A Proof of Service is a document filed with the Court to show that the summons and complaint were successfully served on the defendant in a lawsuit.

After the U.S. Marshal Service serves the summons and complaint, a return receipt, “**green card**” (PS Form 3811), will be mailed to the plaintiff, to show proof of service. The “**green card**” or a copy, must be filed with the Court.

Use the example below as a guide to complete the Proof of Service form:

### PAGE 1

MIED ProSe x (4/19) Proof of Service SC

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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN**

**JANE SMITH,** PLAINTIFF NAME Case No. **18-12345** CASE NUMBER

Plaintiff, Hon. **ROBERT WILLIAMS** JUDGE

v.

**JOHN DOE,** DEFENDANT NAME

Defendant.

**PROOF OF SERVICE  
of  
Summons and Complaint**

The summons and complaint were served on **JOHN DOE** DEFENDANT NAME

### PAGE 2

by U.S. Postal Service Certified Mail. The **signed return receipt**, PS Form 3811 (“green card”), is attached as proof of service on named defendant.

Dated: JANUARY 1, 2019

JANE SMITH  
Signature

JANE SMITH  
Printed Name

456 LINCOLN  
Address

DETROIT, MI 48226  
City, State, Zip Code

(313) 777-7777  
Telephone Number

MIED ProSe x (4/19) Proof of Service SC

Case No. **18-12345** CASE NUMBER

**ATTACH**

The **signed** Original Green Card with the **signature side** showing

or

A **copy** of the **signature side** of the signed Green Card

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the envelope or on the front if space permits.</li> </ul>	<ul style="list-style-type: none"> <li>A. Signature <b>X JANE DOE</b> <input type="checkbox"/> Agent</li> <li>B. Received by (Printed Name) <b>JOHN DOE</b> <input type="checkbox"/> Addressee</li> <li>C. Date of Delivery</li> <li>D. Is delivery address different from last 11? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</li> <li>E. If YES, enter delivery address</li> </ul>
1. Article Addressed to:  <b>John Doe 789 Left Lane Detroit, MI 48531</b>	2. Service Type <input type="checkbox"/> First-Class Mail® <input type="checkbox"/> First-Class Mail® Restricted Delivery <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail® Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery
3. Article Number (Transfer from service label) 9590 9401 0000 5141 0000 12	PS Form 3811 July 2015 PSN 7530-02-000-9032 Domestic Return Receipt