

Multiple Documents

Part	Description
<u>1</u>	15 pages
<u>2</u>	Waiver of Service Jim Wells
<u>3</u>	Waiver of Service John Connelly
<u>4</u>	Waiver of Service James Corwin
<u>5</u>	Waiver of Service John Jordan
<u>6</u>	Waiver of Service James Keathley
<u>7</u>	Waiver of Service Jerry Lee
<u>8</u>	Waiver of Service Paul Vescovo
<u>9</u>	Waiver of Service Daniel White

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JANE DOE I,)
)
JANE DOE II,)
)
JOHN DOE I,)
)
JOHN DOE II,)
)
JOHN DOE III, and)
)
JOHN DOE IV,)
)
Plaintiffs,)
)
v.)
)
JEREMIAH W. NIXON, in his official)
capacity as Attorney General for)
the State of Missouri,)
)
MATT BLUNT, in his official capacity as)
Governor for the State of Missouri,)
)
THOMAS O'CONNOR, in his official)
capacity as Chief of Police for the)
Maryland Heights, Missouri, Police)
Department,)
)
STEVEN SCHICKER, in his official)
capacity as Chief of Police for the)
Ballwin, Missouri, Police)
Department,)
)
ROBERT P. McCULLOCH, in his official)
capacity as Prosecuting Attorney for)
St. Louis County, Missouri,)

No. 4:08-cv-1518 CEJ

**PLAINTIFFS' FIRST AMENDED
COMPLAINT FOR
DECLARATORY AND
INJUNCTATORY RELIEF AND
NOMINAL DAMAGES**

STEVEN KRUSE, in his official capacity)
as Chief of Police for the Bowling)
Green, Missouri, Police Department,))
MARK FISHER, in his official capacity as)
Prosecuting Attorney for Pike)
County, Missouri,)
CARL A. KINNISON, in his official)
capacity as Chief of Police for the)
Cape Girardeau, Missouri, Police)
Department,)
H. MORLEY SWINGLE, in his)
official capacity as Prosecuting)
Attorney for Cape Girardeau County,))
DANIEL L. WHITE, in his official)
capacity as Prosecuting Attorney for)
Clay County, Missouri,)
PAUL C. VESCOVO, III, in his official)
capacity as Sheriff of Clay County,)
Missouri,)
JAMES CORWIN, in his official capacity)
as Chief of Police for the Kansas)
City, Missouri, Police Department,)
JOHN C. CONNELLY, in his official)
capacity as Chief of Police for the)
Manchester, Missouri Police)
Department,)
COLONEL JERRY LEE, in his official)
capacity as Chief of Police for the)
St. Louis County, Missouri Police)
Department,)
JIM WELLS, in his official capacity as)
Sheriff of Pike County, Missouri,)
JOHN JORDON, in his official capacity)
as Sheriff of Cape Girardeau)
County, Missouri, and)

COLONEL JAMES F. KEATHLEY, in)
his official capacity Superintendent)
of the Missouri State Highway)
Patrol,)
)
Defendants.)

INTRODUCTION

1. Plaintiffs are Missouri parents who are required to register as sex offenders based on convictions entered prior to August 28, 2008.
2. This lawsuit challenges a new Missouri statute that became effective August 28, 2008, and requires Plaintiffs and others registered sexual offenders to take the following actions, under threat of criminal charge, on October 31 of every year:
 - A. “Avoid all Halloween-related contact with children;”
 - B. “Remain inside his or her residence between the hours of 5 p.m. and 10:30 p.m. unless required to be elsewhere for just cause, including but not limited to, employment or medical emergencies;”
 - C. “Post a sign at his or her residence stating, ‘No candy or treats at this residence’; and”
 - D. “Leave all outside residential lighting off during the evening hours after 5 p.m.”R.S.Mo. § 589.426.
3. As a result of the lack of clarity about what activities are prohibited by the statute, Plaintiffs reasonably fear that if R.S.Mo. § 589.426 is permitted to be enforced they will be subjected to arbitrary and discriminatory enforcement for actions or inactions that they did not reasonably know would violate the law. In particular, Plaintiffs do not understand how to conform to the statute’s criminal proscription against Halloween-related contact with children who are their own children, their own grandchildren, or

who live with them. In addition, Plaintiffs submit that the challenged statute violates rights guaranteed to them by the United State Constitution and the Missouri Constitution.

4. This action seeks entry of a declaratory judgment finding that R.S.Mo. § 589.426 is unconstitutional under the federal Constitution and the Missouri state constitution as well as preliminary and permanent injunctions prohibiting enforcement of the statute.

JURISDICTION AND VENUE

5. This Court has jurisdiction under 28 U.S.C. §§ 1331, 1342, 1367, 2201 and 42 U.S.C. § 1983.
6. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(1).
7. Divisional venue is proper in the Eastern Division pursuant to E.D.Mo. L.R. 2.07(a)(1), (b)(2).

PARTIES

8. Plaintiffs are Missouri residents who were convicted prior to August 28, 2008, of offenses that require them to register as sexual offenders in the State of Missouri.
9. Jane Doe I¹ is a resident of the City of Maryland Heights in St. Louis County, Missouri. On or about May 16, 2003, she was convicted in St. Louis County, Missouri, of two counts of second degree statutory sodomy. The offenses of which she was convicted occurred on or about May 1, 1999. She is required to register as a sexual offender pursuant to R.S.Mo. § 589.400. She has significant contact with her grandchildren, who are now and will be for years to come under the age of 18 (*i.e.*, “children” within the meaning of the statute).
10. Jane Doe II is a resident of the City of Cape Girardeau in Cape Girardeau County,

¹ Jane Doe I, Jane Doe II, John Doe I, and John Doe II have previously filed a motion for leave to proceed with the use of pseudonyms, which remains pending. (Doc. # 3). John Doe III and John Doe IV anticipate filing a identical motion in the near future.

Missouri. On or about December 7, 2001, she was convicted in St. Charles County, Missouri, of two counts each of statutory rape and statutory sodomy. The offenses of which she was convicted occurred on or about November 1, 1995. She is required to register as a sexual offender pursuant to R.S.Mo. § 589.400. She has sole custody of her ten-year-old daughter.

11. John Doe I is a resident of the City of Ballwin in St. Louis County, Missouri. On or about January 17, 2001, he was convicted in Cole County, Missouri, of statutory rape and statutory sodomy. The offenses of which he was convicted occurred on or about July 1, 1999. He lives with his step-children, who are under the age of 18.
12. John Doe II is resident of the City of Bowling Green in Pike County, Missouri. On or about June 28, 1995, he was convicted in Marion County, Missouri, of statutory rape. The offense of which he was convicted occurred on or about February 5, 1995. He has sole custody of two children from a previous marriage, a step-child, and another child, with all of whom he resides and all of whom are minors.
13. John Doe III is a resident of the City of Kansas City in Clay County, Missouri. On or about November 13, 1997, he was convicted in Sedgwick County, Kansas, of indecent liberties with a minor. The offense of which he was convicted occurred on or about July 14, 1997. He lives with his daughter, who is a minor.
14. John Doe IV is a resident of the City of Manchester in St. Louis County Missouri. On or about January 27, 1999, he was convicted in the District of Columbia of a misdemeanor charge of sexual abuse. The offense of which he is convicted occurred on or about October 1, 1998. He has one minor child.
15. Defendant Jeremiah W. Nixon is the Attorney General of the State of Missouri and is sued solely in his official capacity. Nixon is the State's chief law enforcement officer and is charged with instituting any proceedings necessary to enforce state statutes.

R.S.Mo. § 27.060. The Attorney General is also authorized to aid prosecutors when so directed by the Governor and to sign indictments when directed by the court. R.S.Mo. § 27.030. His primary office is located in Cole County, Missouri.

16. Defendant Matt Blunt is the current Governor of the State of Missouri. The supreme executive power lies with the governor. Mo. Const. art. 4, § 1. He has the duty to “take care that laws are distributed and faithfully executed.” Mo. Const. art. 4, § 2. His primary office is located in Cole County, Missouri.
17. Defendant Thomas O’Connor is the Chief of Police for the Maryland Heights Police Department in Maryland Heights, Missouri. He is sued solely in his official capacity. He is the chief law enforcement officer for Maryland Heights and will be responsible for enforcing R.S.Mo. § 589.426 within Maryland Heights, where Jane Doe I resides. Maryland Heights is located in St. Louis County, Missouri.
18. Defendant Steven Schicker is the Chief of Police for the Ballwin Police Department in Ballwin, Missouri. He is sued solely in his official capacity. He is the chief law enforcement officer for Ballwin and will be responsible for enforcing R.S.Mo. § 589.426 within Ballwin, where John Doe I resides. Ballwin is located in St. Louis County, Missouri.
19. Defendant Carl A. Kinnison is the Chief of Police for the Cape Girardeau Police Department in Cape Girardeau, Missouri. He is sued solely in his official capacity. He is the chief law enforcement officer for the City of Cape Girardeau and will be responsible for enforcing R.S.Mo. § 589.426 within the City of Cape Girardeau, where Jane Doe II resides. Cape Girardeau is located in Cape Girardeau County, Missouri.
20. Defendant Steven Kruse is the Chief of Police for the Bowling Green Police Department in Bowling Green, Missouri. He is sued solely in his official capacity. He is the chief law enforcement officer for Bowling Green and will be responsible for enforcing

R.S.Mo. § 589.426 within Bowling Green, where John Doe II resides. Bowling Green is located in Pike County, Missouri.

21. Defendant Mark Fisher is the Prosecuting Attorney for Pike County. Fisher is responsible for commencing and prosecuting all criminal actions, including violations of R.S.Mo. § 589.426, within Pike County. His primary office is located in Pike County, Missouri. He is sued solely in his official capacity.
22. Defendant Robert P. McCulloch is the Prosecuting Attorney for St. Louis County. McCulloch is responsible for commencing and prosecuting all criminal actions, including violations of R.S.Mo. § 589.426, within St. Louis County. His primary office is located in St. Louis County, Missouri. He is sued solely in his official capacity.
23. Defendant H. Morley Swingle is the Prosecuting Attorney for Cape Girardeau County. Swingle is responsible for commencing and prosecuting all criminal actions, including violations of R.S.Mo. § 589.426, within Cape Girardeau County. His primary office is located in Cape Girardeau, Missouri. He is sued solely in his official capacity.
24. Defendant Daniel L. White is the Prosecuting Attorney for Clay County. White is responsible for commencing and prosecuting all criminal actions, including violations of R.S.Mo. § 589.426, within Clay County. His primary office is located in Liberty, Missouri. He is sued solely in his official capacity. Defendant White sent a letter to Plaintiff John Doe III and all other persons required to register as sexual offenders in Clay County notifying them [THAT], “Violation of [R.S.Mo. § 589.426] is a Class A misdemeanor punishable by up to a year in the county jail and/or a fine of up to \$1,000.” Defendant White’s letter further advised, “Any and all violations of this law that occur in Clay County will be prosecuted.”
25. Defendant Paul C. Vescovo, III, is the Sheriff for Clay County, Missouri. He is sued solely in his official capacity. He is responsible for enforcing Missouri criminal statutes,

including R.S.Mo. § 589.426, within Clay County, where John Doe III resides.

Defendant Vescovo sent a letter to John Doe III and others required to register as sexual offenders in Clay County notifying them that, “During the course of Halloween night, my deputies and I will be patrolling and will check on each and every listed offender to ensure compliance with [R.S.Mo. § 589.426]. We’ll be checking on lighting, signage and whether the registered offender is inside his or her residence as mandated by the statute.”

26. Defendant Jim Wells is the Sheriff for Pike County, Missouri. He is sued solely in his official capacity. He is responsible for enforcing Missouri criminal statutes, including R.S.Mo. § 589.426, within Pike County, where John Doe II resides.
27. Defendant John Jordan is the Sheriff for Cape Girardeau County, Missouri. He is sued solely in his official capacity. He is responsible for enforcing Missouri criminal statutes, including R.S.Mo. § 589.426, within Cape Girardeau County, where Jane Doe II resides.
28. Defendant John C. Connolly is the Chief of Police for the Manchester Police Department in Manchester, Missouri. He is sued solely in his official capacity. He is the chief law enforcement officer for Manchester and will be responsible for enforcing R.S.Mo. § 589.426 within Manchester, where John Doe IV resides. Manchester is located in St. Louis County, Missouri.
29. Defendant Colonel Jerry Lee is the Chief of the St. Louis County Police Department. He is sued solely in his official capacity. He is responsible for enforcing Missouri criminal statutes, including R.S.Mo. § 589.426, within St. Louis County, where Jane Doe I, John Doe I, and John Doe IV reside. One of Defendant Lee’s detectives told the *New York Times* that—prior to entry of preliminary injunction—he had planned to knock on the doors of persons required to register as sexual offenders to ensure they were home. He further stated that after the preliminary injunction he planned to go to each house to

ensure that a sign was posted and exterior lights were off. It is unknown what he decided to do after the preliminary injunction was stayed by order of the Eighth Circuit.

30. Defendant James Corwin is the Chief of Police for the Kansas City Police Department in Kansas City, Missouri. He is sued solely in his official capacity. He is the chief law enforcement officer for the City of Kansas City, Missouri, and will be responsible for enforcing R.S.Mo. § 589.426 within St. Louis County, where John Doe III resides.
31. Defendant Colonel James F. Keathley is the Superintendent of the Missouri Highway Patrol. He is sued solely in his official capacity. As superintendent of a statewide law-enforcement agency, he is responsible for the enforcement of R.S.Mo. § 589.426 against persons who come into contact with the Missouri Highway Patrol. Agents of Defendant Keathley made public statements that R.S.Mo. § 589.426 cannot be applied retrospectively to persons convicted before the statute's enactment on August 28, 2008.

STATUTE AT ISSUE

32. R.S.Mo. § 589.426, entitled "Registered sexual offender, Halloween-related activities," provides:
 1. Any person required to register as a sexual offender under sections 589.400 to 589.425 shall be required on October thirty-first of each year to:
 - (1) Avoid all Halloween-related contact with children;
 - (2) Remain inside his or her residence between the hours of 5 p.m. and 10:30 p.m. unless required to be elsewhere for just cause, including but not limited to, employment or medical emergencies;
 - (3) Post a sign at his or her residence stating, "No candy or treats at this residence"; and
 - (4) Leave all outside residential lighting off during the evening hours

after 5 p.m.

2. Any person required to register as a sexual offender under sections 589.400 to 589.425 who violates the provisions of subsection 1 of this section shall be guilty of a class A misdemeanor.

COUNT I

Violation of Due Process Clause of the Fourteenth Amendment – Inadequate Notice

33. Plaintiffs incorporate each of the allegations contained in paragraphs 1-32 as if each were set forth here verbatim.
34. Plaintiffs and other persons of reasonable intelligence do not have an understanding of several terms in the statutes, including what constitutes “avoid,” “Halloween-related contact,” and “just cause,” within the context of the challenged statute.
35. Defendants likewise have difficulty interpreting the meaning of the law. For instance Jane Doe II and other persons required to register as sexual offenders in Cape Girardeau County received a directive from the Cape Girardeau County Sheriff’s Office requiring them to sign and return a statement promising that they will comply with the Sheriff’s interpretation of R.S.Mo § 589.426. The statement that the Sheriff’s office required Plaintiff to sign, reprinted verbatim below, reflected the Sheriff Department’s particular interpretation of the statute. The statement reads:
- During the Halloween Season, I will make NO attempt to engage in any type of contact with children or go to any location, *[sic]* where children are known to frequent in order to celebrate any type of Halloween Festivities. I will remain inside my residence between 5 PM and 10:30 PM unless there is just cause to leave. I will post the sign; *[sic]* “NO CANDY OR TREATS AT THIS RESIDENCE” on my front door and will leave all outside residential lighting off during the evening hours.
36. R.S.Mo. § 589.426 is so vague as to fail to provide fair notice or warning of activity that would violate the statute.
37. In addition or in the alternative, R.S.Mo. § 589.426 fails to define the criminal offense it

creates with sufficient [CLARITY-PARTICULARITY/definiteness] that ordinary people can understand what conduct is prohibited.

38. In addition or in the alternative, R.S.Mo. § 589.426 fails to establish minimal guidelines to govern law enforcement so as to prevent arbitrary and discriminatory enforcement.

COUNT II

Violation of Ex Post Facto Clause, U.S. Const. Art. I, Sec. 10

39. Plaintiffs incorporate each of the allegations contained in paragraphs 1-32 as if each were set forth here verbatim.
40. R.S.Mo. § 589.426 imposes a punishment upon Plaintiffs for crimes that were committed before R.S.Mo. § 589.426's enactment.

COUNT III

Violation of First Amendment – Interference with Family Association

41. Plaintiffs incorporate each of the allegations contained in paragraphs 1-32 as if each were set forth here verbatim.
42. R.S.Mo. § 589.426 unreasonable interferes with Plaintiffs' right of family association with their children, step-children, and grandchildren.

COUNT IV

Violation of Fifth Amendment – Privilege against Self-Incrimination

43. Plaintiffs incorporate each of the allegations contained in paragraphs 1-32 as if each were set forth here verbatim.
44. R.S.Mo. § 589.426 requires Plaintiffs affirmatively provide "just cause" for being absent from their homes from 5:00 p.m. to 10:30 p.m. on October 31. This shifts the burden of providing a "just cause" reason for absence to the Plaintiffs, which requires them to speak in order to avoid arrest.

COUNT V

Violation of Fourteenth Amendment – Right to Travel

45. Plaintiffs incorporate each of the allegations contained in paragraph 1-32 as if each were set forth here verbatim.

46. R.S.Mo. § 589.426 requires Plaintiffs to remain in their homes from 5:00 p.m. to 10:30 p.m. on October 31, which impedes their right to travel interstate and intrastate on that day each year, and affects the right to intrastate travel on that day and surrounding days each year.

COUNT VI

Violation of Missouri Constitution, Art. 1, § 13

47. Plaintiffs incorporate each of the allegations contained in paragraphs 1-32 as if each were set forth here verbatim.

48. Missouri's Constitution provides, "that no ... law ... retrospective in its operation ... can be enacted." Mo. Const. art I, § 13.

49. R.S.Mo. § 589.426 imposes an affirmative obligations on Plaintiffs on each October 31 to do each of the following (1) Avoid all Halloween-related contact with children; (2) Remain inside his or her residence between the hours of 5 p.m. and 10:30 p.m. unless required to be elsewhere for just cause, including but not limited to, employment or medical emergencies; (3) Post a sign at his or her residence stating, "No candy or treats at this residence"; and (4) Leave all outside residential lighting off during the evening hours after 5 p.m.

49. The obligations created by R.S.Mo. § 589.426 are new duties imposed as a result of Plaintiffs' criminal conviction.

50. R.S.Mo. § 589.426 was enacted after Plaintiffs' convictions.

WHEREFORE, the Plaintiffs pray this Court:

- A. Enter declaratory judgment that R.S.Mo. § 589.426 violates the Constitution of the United States, on its face, and the Missouri Constitution, as applied to Plaintiffs and others convicted prior to August 28, 2008, of offenses that give rise to an obligation to register as a sexual offender;
- B. Upon proper motion, certify appropriate Plaintiff and Defendant classes;
- C. Issue preliminary and permanent injunctions enjoining enforcement R.S.Mo. § 589.426;
- D. Award Plaintiffs nominal damages for violation of the constitutional rights;
- E. Award Plaintiffs costs, including reasonable attorneys fees, pursuant to 42 U.S.C. §1988; and
- F. Allow such other and further relief to which Plaintiffs may be entitled.

Respectfully submitted,

/s/ Anthony E. Rothert

ANTHONY E. ROTHERT #518779

American Civil Liberties Union of Eastern Missouri

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Fax: 618-277-1136

Email: dnelson@nelsonlawpc.com

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served upon each of the Defendants listed below at the address listed below by placing a copy of the foregoing in a properly addressed, postage pre-paid envelope and placing said envelope in the United States Mail on November 3, 2008:

Mark Fisher
Office of Prosecuting Attorney
115 West Main St.
Bowling Green, MO 63334
Pro Se and Attorney for Defendant Fisher

and was delivered by operation of this Court's ECF/CM system on November 2, 2008, to the following:

Robert E. Jones
JONES AND HAYWOOD
7700 Bonhomme
Suite 200
St. Louis, MO 63105-1793
314-727-0777
Fax: 314-727-9071
Email: rejones@jhbkj.com
Attorney for Defendant Schicker

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Email: lmerklinvonkaenel@stlouisco.com
Attorney for Defendant McCulloch

/s/ Anthony E. Rothert



United States District Court
EASTERN DISTRICT OF MISSOURI
**NOTICE OF LAWSUIT AND
REQUEST FOR WAIVER OF SERVICE OF SUMMONS**

*** * Plaintiff to Complete Gray Area * ***

TO: Jim Wells
(Name of defendant)
(as Sheriff of Pike County, Missouri)
(Title) (Name of business)

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 the United States District Court for the Eastern District

of Missouri and has been assigned docket number 4:08-cv-1518 CEJ.

This is not a formal summons or notification from the court, but rather my request that you sign and return the enclosed waiver of service in order to save the cost of serving you with a judicial summons and an additional copy of the complaint. The cost of service will be avoided if I receive a signed copy of the waiver within 30 days after the date designated below as the date on which this Notice and Request is sent. 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 the signed waiver to the undersigned, it will be filed with the court and no summons will be served on you. The action will then proceed as if you had been served on the date the waiver is filed, except you will not be obligated to answer the complaint before 60 days from the date designated below as the date on which this notice is sent (or before 90 days from that date if your address is not in any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will take appropriate steps to effect formal service in a manner authorized by the Federal Rules of Civil Procedure and will then, to the extent authorized by those Rules, ask the court to require you (or the party on whose behalf you are addressed) to pay the full costs of such service. In that connection, please read the statement concerning the duty of parties to waive the service of the summons, which is set forth on the foot of the waiver form.

I affirm that this request is being sent to you on behalf of the plaintiff, this ____ day of _____, 20 ____.

Signature of Plaintiff's Attorney or
Unrepresented Plaintiff

DUTY TO AVOID UNNECESSARY COSTS OF SERVICE OF SUMMONS

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the 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 its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer, than if the summons had actually served, when the request for waiver of service was received.



United States District Court

EASTERN DISTRICT OF MISSOURI

WAIVER OF SERVICE OF SUMMONS

NOTICE TO DEFENDANT(S)

** Plaintiff To Complete Gray Area **

To: Anthony E. Rothert
(Name of plaintiff's attorney or unrepresented plaintiff)

I acknowledge receipt of your request that I waive service of a summons in the action of:

Case Caption: Jane Doe I, et al v. Jeremiah W. Nixon, et al

Case Number: 4:08-cv-1518 CEJ

in the United States District Court for the Eastern District of Missouri. I have also received a copy of the complaint in this action, two copies of this instrument, 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 of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections 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 acting) if an answer or motion under Rule 12 is not served upon you within 60 days after _____,

(Date Waiver sent)

or within 90 days after date if the request was sent outside the United States.

DEFENDANT'S ACKNOWLEDGMENT OF WAIVER OF SERVICE

Date

Print name

Signature

as _____
(Officer or Agent)

of _____
(Corporation or Association)

Address

City, State, Zip Code



United States District Court
EASTERN DISTRICT OF MISSOURI
NOTICE OF LAWSUIT AND
REQUEST FOR WAIVER OF SERVICE OF SUMMONS

*** * Plaintiff to Complete Gray Area * ***

TO: John C. Connolly
(Name of defendant)
(as Chief of Manchester, Missouri Police Department)
(Title) (Name of business)

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 the United States District Court for the Eastern District

of Missouri and has been assigned docket number 4:08-cv-1518 CEJ.

This is not a formal summons or notification from the court, but rather my request that you sign and return the enclosed waiver of service in order to save the cost of serving you with a judicial summons and an additional copy of the complaint. The cost of service will be avoided if I receive a signed copy of the waiver within 30 days after the date designated below as the date on which this Notice and Request is sent. 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 the signed waiver to the undersigned, it will be filed with the court and no summons will be served on you. The action will then proceed as if you had been served on the date the waiver is filed, except you will not be obligated to answer the complaint before 60 days from the date designated below as the date on which this notice is sent (or before 90 days from that date if your address is not in any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will take appropriate steps to effect formal service in a manner authorized by the Federal Rules of Civil Procedure and will then, to the extent authorized by those Rules, ask the court to require you (or the party on whose behalf you are addressed) to pay the full costs of such service. In that connection, please read the statement concerning the duty of parties to waive the service of the summons, which is set forth on the foot of the waiver form.

I affirm that this request is being sent to you on behalf of the plaintiff, this ____ day of _____, 20____.

Signature of Plaintiff's Attorney or
Unrepresented Plaintiff

DUTY TO AVOID UNNECESSARY COSTS OF SERVICE OF SUMMONS

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the 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 its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer, than if the summons had actually served, when the request for waiver of service was received.



United States District Court

EASTERN DISTRICT OF MISSOURI

WAIVER OF SERVICE OF SUMMONS

NOTICE TO DEFENDANT(S)

** Plaintiff To Complete Gray Area **

To: Anthony E. Rothert
(Name of plaintiff's attorney or unrepresented plaintiff)

I acknowledge receipt of your request that I waive service of a summons in the action of:

Case Caption: Jane Doe I, et al v. Jeremiah W. Nixon, et al

Case Number: 4:08-cv-1518 CEJ

in the United States District Court for the Eastern District of Missouri. I have also received a copy of the complaint in this action, two copies of this instrument, 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 of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections 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 acting) if an answer or motion under Rule 12 is not served upon you within 60 days after _____,

(Date Waiver sent)

or within 90 days after date if the request was sent outside the United States.

DEFENDANT'S ACKNOWLEDGMENT OF WAIVER OF SERVICE

Date

Print name

Signature

as _____
(Officer or Agent)

of _____
(Corporation or Association)

Address

City, State, Zip Code



United States District Court
EASTERN DISTRICT OF MISSOURI
NOTICE OF LAWSUIT AND
REQUEST FOR WAIVER OF SERVICE OF SUMMONS

*** * Plaintiff to Complete Gray Area * ***

TO: James Corwin
(Name of defendant)
(as Chief of Kansas City, Missouri Police Department)
(Title) (Name of business)

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 the United States District Court for the Eastern District

of Missouri and has been assigned docket number 4:08-cv-1518 CEJ.

This is not a formal summons or notification from the court, but rather my request that you sign and return the enclosed waiver of service in order to save the cost of serving you with a judicial summons and an additional copy of the complaint. The cost of service will be avoided if I receive a signed copy of the waiver within 30 days after the date designated below as the date on which this Notice and Request is sent. 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 the signed waiver to the undersigned, it will be filed with the court and no summons will be served on you. The action will then proceed as if you had been served on the date the waiver is filed, except you will not be obligated to answer the complaint before 60 days from the date designated below as the date on which this notice is sent (or before 90 days from that date if your address is not in any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will take appropriate steps to effect formal service in a manner authorized by the Federal Rules of Civil Procedure and will then, to the extent authorized by those Rules, ask the court to require you (or the party on whose behalf you are addressed) to pay the full costs of such service. In that connection, please read the statement concerning the duty of parties to waive the service of the summons, which is set forth on the foot of the waiver form.

I affirm that this request is being sent to you on behalf of the plaintiff, this ____ day of _____, 20____.

Signature of Plaintiff's Attorney or
Unrepresented Plaintiff

DUTY TO AVOID UNNECESSARY COSTS OF SERVICE OF SUMMONS

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the 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 its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer, than if the summons had actually served, when the request for waiver of service was received.



United States District Court

EASTERN DISTRICT OF MISSOURI

WAIVER OF SERVICE OF SUMMONS

NOTICE TO DEFENDANT(S)

** Plaintiff To Complete Gray Area **

To: Anthony E. Rothert
(Name of plaintiff's attorney or unrepresented plaintiff)

I acknowledge receipt of your request that I waive service of a summons in the action of:

Case Caption: Jane Doe I, et al v. Jeremiah W. Nixon, et al

Case Number: 4:08-cv-1518 CEJ

in the United States District Court for the Eastern District of Missouri. I have also received a copy of the complaint in this action, two copies of this instrument, 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 of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections 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 acting) if an answer or motion under Rule 12 is not served upon you within 60 days after _____,

(Date Waiver sent)

or within 90 days after date if the request was sent outside the United States.

DEFENDANT'S ACKNOWLEDGMENT OF WAIVER OF SERVICE

Date

Print name

Signature

as _____
(Officer or Agent)

of _____
(Corporation or Association)

Address

City, State, Zip Code



United States District Court
EASTERN DISTRICT OF MISSOURI
NOTICE OF LAWSUIT AND
REQUEST FOR WAIVER OF SERVICE OF SUMMONS

*** * Plaintiff to Complete Gray Area * ***

TO: John Jordan
(Name of defendant)
(as Sheriff of Cape Girardeu County, Missouri)
(Title) (Name of business)

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 the United States District Court for the Eastern District

of Missouri and has been assigned docket number 4:08-cv-1518 CEJ.

This is not a formal summons or notification from the court, but rather my request that you sign and return the enclosed waiver of service in order to save the cost of serving you with a judicial summons and an additional copy of the complaint. The cost of service will be avoided if I receive a signed copy of the waiver within 30 days after the date designated below as the date on which this Notice and Request is sent. 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 the signed waiver to the undersigned, it will be filed with the court and no summons will be served on you. The action will then proceed as if you had been served on the date the waiver is filed, except you will not be obligated to answer the complaint before 60 days from the date designated below as the date on which this notice is sent (or before 90 days from that date if your address is not in any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will take appropriate steps to effect formal service in a manner authorized by the Federal Rules of Civil Procedure and will then, to the extent authorized by those Rules, ask the court to require you (or the party on whose behalf you are addressed) to pay the full costs of such service. In that connection, please read the statement concerning the duty of parties to waive the service of the summons, which is set forth on the foot of the waiver form.

I affirm that this request is being sent to you on behalf of the plaintiff, this ____ day of _____, 20 ____.

Signature of Plaintiff's Attorney or
Unrepresented Plaintiff

DUTY TO AVOID UNNECESSARY COSTS OF SERVICE OF SUMMONS

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the 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 its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer, than if the summons had actually served, when the request for waiver of service was received.



United States District Court

EASTERN DISTRICT OF MISSOURI

WAIVER OF SERVICE OF SUMMONS

NOTICE TO DEFENDANT(S)

** Plaintiff To Complete Gray Area **

To: Anthony E. Rothert
(Name of plaintiff's attorney or unrepresented plaintiff)

I acknowledge receipt of your request that I waive service of a summons in the action of:

Case Caption: Jane Doe I, et al v. Jeremiah W. Nixon, et al

Case Number: 4:08-cv-1518 CEJ

in the United States District Court for the Eastern District of Missouri. I have also received a copy of the complaint in this action, two copies of this instrument, 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 of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections 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 acting) if an answer or motion under Rule 12 is not served upon you within 60 days after _____,

(Date Waiver sent)

or within 90 days after date if the request was sent outside the United States.

DEFENDANT'S ACKNOWLEDGMENT OF WAIVER OF SERVICE

Date

Print name

Signature

as _____
(Officer or Agent)

of _____
(Corporation or Association)

Address

City, State, Zip Code



United States District Court
EASTERN DISTRICT OF MISSOURI
**NOTICE OF LAWSUIT AND
REQUEST FOR WAIVER OF SERVICE OF SUMMONS**

*** * Plaintiff to Complete Gray Area * ***

TO: COLONEL JAMES F. KEATHLEY
(Name of defendant)
(as Superintendent of Missouri Highway Patrol)
(Title) (Name of business)

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 the United States District Court for the Eastern District

of Missouri and has been assigned docket number 4:08-cv-1518 CEJ.

This is not a formal summons or notification from the court, but rather my request that you sign and return the enclosed waiver of service in order to save the cost of serving you with a judicial summons and an additional copy of the complaint. The cost of service will be avoided if I receive a signed copy of the waiver within 30 days after the date designated below as the date on which this Notice and Request is sent. 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 the signed waiver to the undersigned, it will be filed with the court and no summons will be served on you. The action will then proceed as if you had been served on the date the waiver is filed, except you will not be obligated to answer the complaint before 60 days from the date designated below as the date on which this notice is sent (or before 90 days from that date if your address is not in any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will take appropriate steps to effect formal service in a manner authorized by the Federal Rules of Civil Procedure and will then, to the extent authorized by those Rules, ask the court to require you (or the party on whose behalf you are addressed) to pay the full costs of such service. In that connection, please read the statement concerning the duty of parties to waive the service of the summons, which is set forth on the foot of the waiver form.

I affirm that this request is being sent to you on behalf of the plaintiff, this ____ day of _____, 20____.

Signature of Plaintiff's Attorney or
Unrepresented Plaintiff

DUTY TO AVOID UNNECESSARY COSTS OF SERVICE OF SUMMONS

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the 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 its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer, than if the summons had actually served, when the request for waiver of service was received.



United States District Court

EASTERN DISTRICT OF MISSOURI

WAIVER OF SERVICE OF SUMMONS

NOTICE TO DEFENDANT(S)

** Plaintiff To Complete Gray Area **

To: Anthony E. Rothert
(Name of plaintiff's attorney or unrepresented plaintiff)

I acknowledge receipt of your request that I waive service of a summons in the action of:

Case Caption: Jane Doe I, et al v. Jeremiah W. Nixon, et al

Case Number: 4:08-cv-1518 CEJ

in the United States District Court for the Eastern District of Missouri. I have also received a copy of the complaint in this action, two copies of this instrument, 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 of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections 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 acting) if an answer or motion under Rule 12 is not served upon you within 60 days after _____,

(Date Waiver sent)

or within 90 days after date if the request was sent outside the United States.

DEFENDANT'S ACKNOWLEDGMENT OF WAIVER OF SERVICE

Date

Print name

Signature

as _____
(Officer or Agent)

of _____
(Corporation or Association)

Address

City, State, Zip Code



United States District Court
EASTERN DISTRICT OF MISSOURI
NOTICE OF LAWSUIT AND
REQUEST FOR WAIVER OF SERVICE OF SUMMONS

*** * Plaintiff to Complete Gray Area * ***

TO: Colonel Jerry Lee
(Name of defendant)
(as Chief of St. Louis County Police Department)
(Title) (Name of business)

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 the United States District Court for the Eastern District

of Missouri and has been assigned docket number 4:08-cv-1518 CEJ.

This is not a formal summons or notification from the court, but rather my request that you sign and return the enclosed waiver of service in order to save the cost of serving you with a judicial summons and an additional copy of the complaint. The cost of service will be avoided if I receive a signed copy of the waiver within 30 days after the date designated below as the date on which this Notice and Request is sent. 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 the signed waiver to the undersigned, it will be filed with the court and no summons will be served on you. The action will then proceed as if you had been served on the date the waiver is filed, except you will not be obligated to answer the complaint before 60 days from the date designated below as the date on which this notice is sent (or before 90 days from that date if your address is not in any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will take appropriate steps to effect formal service in a manner authorized by the Federal Rules of Civil Procedure and will then, to the extent authorized by those Rules, ask the court to require you (or the party on whose behalf you are addressed) to pay the full costs of such service. In that connection, please read the statement concerning the duty of parties to waive the service of the summons, which is set forth on the foot of the waiver form.

I affirm that this request is being sent to you on behalf of the plaintiff, this _____ day of _____, 20____.

Signature of Plaintiff's Attorney or
Unrepresented Plaintiff

DUTY TO AVOID UNNECESSARY COSTS OF SERVICE OF SUMMONS

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the 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 its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer, than if the summons had actually served, when the request for waiver of service was received.



United States District Court

EASTERN DISTRICT OF MISSOURI

WAIVER OF SERVICE OF SUMMONS

NOTICE TO DEFENDANT(S)

** Plaintiff To Complete Gray Area **

To: Anthony E. Rothert
(Name of plaintiff's attorney or unrepresented plaintiff)

I acknowledge receipt of your request that I waive service of a summons in the action of:

Case Caption: Jane Doe I, et al v. Jeremiah W. Nixon, et al

Case Number: 4:08-cv-1518 CEJ

in the United States District Court for the Eastern District of Missouri. I have also received a copy of the complaint in this action, two copies of this instrument, 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 of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections 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 acting) if an answer or motion under Rule 12 is not served upon you within 60 days after _____,

(Date Waiver sent)

or within 90 days after date if the request was sent outside the United States.

DEFENDANT'S ACKNOWLEDGMENT OF WAIVER OF SERVICE

Date

Print name

Signature

as _____
(Officer or Agent)

of _____
(Corporation or Association)

Address

City, State, Zip Code



United States District Court
EASTERN DISTRICT OF MISSOURI
**NOTICE OF LAWSUIT AND
REQUEST FOR WAIVER OF SERVICE OF SUMMONS**

*** * Plaintiff to Complete Gray Area * ***

TO: Paul C. Vescovo, III
(Name of defendant)
(as Sheriff of Clay County, Missouri)
(Title) (Name of business)

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 the United States District Court for the Eastern District

of Missouri and has been assigned docket number 4:08-cv-1518 CEJ.

This is not a formal summons or notification from the court, but rather my request that you sign and return the enclosed waiver of service in order to save the cost of serving you with a judicial summons and an additional copy of the complaint. The cost of service will be avoided if I receive a signed copy of the waiver within 30 days after the date designated below as the date on which this Notice and Request is sent. 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 the signed waiver to the undersigned, it will be filed with the court and no summons will be served on you. The action will then proceed as if you had been served on the date the waiver is filed, except you will not be obligated to answer the complaint before 60 days from the date designated below as the date on which this notice is sent (or before 90 days from that date if your address is not in any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will take appropriate steps to effect formal service in a manner authorized by the Federal Rules of Civil Procedure and will then, to the extent authorized by those Rules, ask the court to require you (or the party on whose behalf you are addressed) to pay the full costs of such service. In that connection, please read the statement concerning the duty of parties to waive the service of the summons, which is set forth on the foot of the waiver form.

I affirm that this request is being sent to you on behalf of the plaintiff, this ____ day of _____, 20____.

Signature of Plaintiff's Attorney or
Unrepresented Plaintiff

DUTY TO AVOID UNNECESSARY COSTS OF SERVICE OF SUMMONS

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the 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 its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer, than if the summons had actually served, when the request for waiver of service was received.



United States District Court

EASTERN DISTRICT OF MISSOURI

WAIVER OF SERVICE OF SUMMONS

NOTICE TO DEFENDANT(S)

** Plaintiff To Complete Gray Area **

To: Anthony E. Rothert
(Name of plaintiff's attorney or unrepresented plaintiff)

I acknowledge receipt of your request that I waive service of a summons in the action of:

Case Caption: Jane Doe I, et al v. Jeremiah W. Nixon, et al

Case Number: 4:08-cv-1518 CEJ

in the United States District Court for the Eastern District of Missouri. I have also received a copy of the complaint in this action, two copies of this instrument, 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 of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections 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 acting) if an answer or motion under Rule 12 is not served upon you within 60 days after _____,

(Date Waiver sent)

or within 90 days after date if the request was sent outside the United States.

DEFENDANT'S ACKNOWLEDGMENT OF WAIVER OF SERVICE

Date

Print name

Signature

as _____
(Officer or Agent)

of _____
(Corporation or Association)

Address

City, State, Zip Code



United States District Court
EASTERN DISTRICT OF MISSOURI
**NOTICE OF LAWSUIT AND
REQUEST FOR WAIVER OF SERVICE OF SUMMONS**

*** * Plaintiff to Complete Gray Area * ***

TO: Daniel L. White
(Name of defendant)
(as Prosecuting Attorney of Clay County, Missouri)
(Title) (Name of business)

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 the United States District Court for the Eastern District

of Missouri and has been assigned docket number 4:08-cv-1518 CEJ.

This is not a formal summons or notification from the court, but rather my request that you sign and return the enclosed waiver of service in order to save the cost of serving you with a judicial summons and an additional copy of the complaint. The cost of service will be avoided if I receive a signed copy of the waiver within 30 days after the date designated below as the date on which this Notice and Request is sent. 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 the signed waiver to the undersigned, it will be filed with the court and no summons will be served on you. The action will then proceed as if you had been served on the date the waiver is filed, except you will not be obligated to answer the complaint before 60 days from the date designated below as the date on which this notice is sent (or before 90 days from that date if your address is not in any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will take appropriate steps to effect formal service in a manner authorized by the Federal Rules of Civil Procedure and will then, to the extent authorized by those Rules, ask the court to require you (or the party on whose behalf you are addressed) to pay the full costs of such service. In that connection, please read the statement concerning the duty of parties to waive the service of the summons, which is set forth on the foot of the waiver form.

I affirm that this request is being sent to you on behalf of the plaintiff, this ____ day of _____, 20____.

Signature of Plaintiff's Attorney or
Unrepresented Plaintiff

DUTY TO AVOID UNNECESSARY COSTS OF SERVICE OF SUMMONS

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the 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 its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer, than if the summons had actually served, when the request for waiver of service was received.



United States District Court

EASTERN DISTRICT OF MISSOURI

WAIVER OF SERVICE OF SUMMONS

NOTICE TO DEFENDANT(S)

** Plaintiff To Complete Gray Area **

To: Anthony E. Rothert
(Name of plaintiff's attorney or unrepresented plaintiff)

I acknowledge receipt of your request that I waive service of a summons in the action of:

Case Caption: Jane Doe I, et al v. Jeremiah W. Nixon, et al

Case Number: 4:08-cv-1518 CEJ

in the United States District Court for the Eastern District of Missouri. I have also received a copy of the complaint in this action, two copies of this instrument, 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 of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections 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 acting) if an answer or motion under Rule 12 is not served upon you within 60 days after _____,

(Date Waiver sent)

or within 90 days after date if the request was sent outside the United States.

DEFENDANT'S ACKNOWLEDGMENT OF WAIVER OF SERVICE

Date

Print name

Signature

as _____
(Officer or Agent)

of _____
(Corporation or Association)

Address

City, State, Zip Code

General Information

Case Name	Doe I et al v. Nixon et al
Docket Number	4:08-cv-01518
Court	United States District Court for the Eastern District of Missouri
Nature of Suit	Constitutionality of State Statutes
Related Opinion(s)	2009 BL 77843 2009 BL 205446 2010 BL 168164 2010 BL 253867