NOTICE TO PARTIES

REGARDING SERVICE PURSUANT TO RULE 4 OF THE FEDERAL RULES OF CIVIL PROCEDURE

WAIVER OF SERVICE OF SUMMONS

Rule 4(d) provides that a plaintiff may request that a defendant waive personal service of the complaint and summons, as required by Fed. R. Civ. P. 4(e)(2), by notifying the defendant that an action has been commenced and requesting that the defendant waive *personal* service of the summons and accept service of the complaint by mail.

To request such a waiver, a plaintiff may send a notice of the commencement of an action, titled "Notice of a Lawsuit and Request to Waive Service of a Summons" (AO398 form), a "Waiver of the Service of Summons" (AO399 form), and a copy of the endorsed complaint to the defendant by first class or certified mail. The plaintiff must also provide a prepaid means for the defendant to return the waiver form.

EFFECT OF WAIVER OF SERVICE OF SUMMONS

When the defendant timely signs the waiver of service of summons and it is filed with the court, the action proceeds as if service of the summons and complaint had been personally made, rather than by mail. By agreeing to waive service of the summons, the defendant is allowed **sixty [60] days** to file an answer to the complaint, as calculated from the date the notice and request for waiver of service was sent, rather than the twenty [20] days allowed after personal service is effected. *See* Fed. R. Civ. P. 4(d)(3) and Rule 12(a)(1)(B). **The defendant does not waive any objection to venue or jurisdiction of the court over the person by agreeing to waive service of the summons.**

If a waiver is not timely returned, or a defendant refuses to waive service, plaintiff is required to serve the summons and complaint as specified in Fed. R. Civ. P. 4(c) and 4(e). A defendant who fails to waive service of summons after a proper request has been made will be assessed the costs incurred to effect personal service on that defendant. *See* Fed. R. Civ. P. 4(d)(2).

Copies of the "Notice of a Lawsuit and Request to Waive Service of a Summons" (AO398), and the "Waiver of the Service of Summons" (AO399), are available from the Clerk of the United States District Court for the District of Hawaii and on the court's website: http://www.hid.uscourts.gov.