

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

FREDRICK PAYNE,

Plaintiff,

v.

PETE BUTTIGIEG and THE
DEPARTMENT OF
TRANSPORTATION,

Defendants.

Case No. 3:22-cv-000277-SLG

ORDER DIRECTING SERVICE AND RESPONSE

Plaintiff Fredrick Payne commenced this action on December 19, 2022.¹ He has paid the filing fee.² This order is now being issued to direct Plaintiff how to effect service in this case.

IT IS THEREFORE ORDERED:

1. Plaintiff shall proceed with the steps outlined in this order to ensure that service of process is completed no later than **ninety (90) days from the date of this order.**³ This means that no later than 90 days from the date of this order, Plaintiff must complete initial service of the Complaint and Summons and file completed Proof of Service forms with the Court. All

¹ Docket 1.

² Docket 2.

³ See Fed. R. Civ. P. 4(m).

service shall be made in a manner authorized by Rule 4 of the Federal Rules of Civil Procedure, which permits service by either (1) registered or certified mail or (2) personal service, as explained below.

2. Plaintiff names an agency and an employee of the United States as Defendants. Accordingly, Plaintiff must follow Rule 4(i) of the Federal Rules of Civil Procedure, "Serving the United States and Its Agencies, Corporations, Officers, or Employees," This rule provides as follows:

SERVING THE UNITED STATES AND ITS AGENCIES,
CORPORATIONS, OFFICERS, OR EMPLOYEES.

(1) *United States*. To serve the United States, a party must:

(A)(i) deliver a copy of the summons and of the complaint to the United States attorney for the district where the action is brought—or to an assistant United States attorney or clerical employee whom the United States attorney designates in a writing filed with the court clerk—or

(ii) send a copy of each by registered or certified mail to the civil-process clerk at the United States attorney's office;

(B) send a copy of each by registered or certified mail to the Attorney General of the United States at Washington, D.C.; and

(C) if the action challenges an order of a nonparty agency or officer of the United States, send a copy of each by registered or certified mail to the agency or officer.

(2) *Agency; Corporation; Officer or Employee Sued in an Official Capacity*. To serve a United States agency or corporation, or a United States officer or employee sued only in an official capacity, a party must serve the United States and also send a copy of the summons

and of the complaint by registered or certified mail to the agency, corporation, officer, or employee.

(3) *Officer or Employee Sued Individually.* To serve a United States officer or employee sued in an individual capacity for an act or omission occurring in connection with duties performed on the United States' behalf (whether or not the officer or employee is also sued in an official capacity), a party must serve the United States and also serve the officer or employee under Rule 4(e), (f), or (g).

(4) *Extending Time.* The court must allow a party a reasonable time to cure its failure to:

(A) serve a person required to be served under Rule 4(i)(2), if the party has served either the United States attorney or the Attorney General of the United States; or

(B) serve the United States under Rule 4(i)(3), if the party has served the United States officer or employee.

3. The Clerk of Court shall provide four summons forms to Plaintiff.
4. To complete the summons form properly, Plaintiff must do the following:
 - a. At the top each form, above "SUMMONS IN A CIVIL ACTION," enter the following information, found on the first page of this order:
 - i. the name of the Court (at the very top middle of the page, after "United States District Court for the District of Alaska"); and
 - ii. the parties' complete full names (above Plaintiff(s) v. Defendant(s), respectively); and
 - iii. the case number, after "Civil Action No."
 - b. As to the target of the summons (i.e., who the summons is to), Plaintiff should write a Defendant's full name and mailing address, if known.

- c. After the paragraph ending, “The answer or motion must be served on the plaintiff or plaintiff’s attorney, whose name and address are” enter the name and address of the appropriate individual. If Plaintiff retains an attorney, that attorney’s name and address information should be entered there. If Plaintiff continues to be self-represented, then Plaintiff’s name and mailing address should be entered there.
- d. After Plaintiff completes the required summons forms, Plaintiff should mail (1) the completed summons forms; (2) copies of the Complaint; and (3) copies of this order to:

U.S. District Court
222 West 7th Avenue, #4
Anchorage, Alaska 99513

If the summons forms have been completed properly, they will then be issued by the Clerk of Court for service.

5. When Plaintiff receives the summonses issued by the Clerk of Court, Plaintiff should make copies for their records. Plaintiff must then serve the Complaint and issued summonses in accordance with Rule 4(i) of Federal Civil Procedure.
6. The requirements of service are not considered met unless proof of service is submitted to the Court within ninety (90) days of this order.⁴

⁴ Fed. R. Civ. P. Rule 4(l)(1).

7. Assuming service is properly effectuated, each Defendant, through the United States Attorney for the District of Alaska, shall have sixty (60) days after receipt of the Summons and Complaint to file an Answer or otherwise respond.
8. **At all times, Plaintiff shall keep the Court informed of any change of address.** Notice of a change of address shall be titled “Notice of Change of Address.”⁵ The notice shall contain **only** information about the change of address and its effective date. The notice **shall not** include requests for any other relief. Failure to file the notice may result in the dismissal of the action for failure to prosecute under Rule 41(b) of the Federal Rules of Civil Procedure, without further notice to Plaintiff.
9. After service of the Complaint, all future papers sent to the Court must be identified with the name of the Court, the case number, Plaintiff’s name, Defendants’ names, and the title of the document, as illustrated on the first page of this order.⁶

⁵ See Local Civil Rule 11.1(b) (requiring a notice of change of address to be filed “[s]elf-represented parties must keep the court and other parties advised of the party’s current address and telephone number.”). A Notice of Change of Address form, PS23, may be obtained from the Clerk of Court, if needed.

⁶ See Fed. R. Civ. P. 10(a) (“The title of the complaint must name all the parties; the title of other pleadings, after naming the first party on each side, may refer generally to other parties.”); see also L. Civ. R. 7.5.

10. Plaintiff shall serve a copy of all further filings submitted to the Court upon each Defendant or, if an appearance has been entered by counsel for a Defendant, on that Defendant's attorney(s).⁷ Plaintiff shall include with any original paper filed with the Clerk of Court a certificate stating the date that an exact copy of the document was mailed to each Defendant or Defendant's counsel. A Certificate of Service may be written in the following form at the end of the document:

I hereby certify that a copy of the above (name of document) was mailed, first class, U.S. mail, to (name of opposing party or counsel) at (address) on (date).

(Signature)

Any paper received by a District Court Judge or Magistrate Judge that does not include a Certificate of Service indicating that each Defendant was served with a copy of that document will be disregarded by the Court.

11. Each litigant is responsible for keeping a copy of each document filed with the Court. When a litigant mails a document to the Court, the litigant will receive a Notice of Electronic Filing ("NEF") from the Court that will indicate when that document was filed on the docket and the docket number of the document. Copies of documents that have been filed with the Court may be obtained from the Clerk's Office for \$0.50 per page. In the event of special circumstances or serious financial need, a party may file a motion asking for

⁷ See Fed. R. Civ. P. 5.

the cost of copies to be waived or reduced.

12. No party shall have any *ex parte* communication with a District Court Judge or Magistrate Judge of this Court about the merits of this action. This means that parties cannot communicate with any judge without the presence and/or knowledge and consent of the other parties. For example, Plaintiff shall not write letters to, or call, a judge directly. Any request for action by the Court during these proceedings must be filed with the Clerk of Court as a motion.
13. A motion should contain the information identified in the caption of this order and should be titled “Motion for (add the relief requested).” In a motion, a party should state specifically and concisely what he or she wants so that the Court understands what the party is requesting, along with any relevant legal authority that supports the party’s request. This Court’s Local Civil Rule 7.1(b) requires that most motions must be filed with a proposed order that the Court can issue if the motion is granted. The proposed order helps to clarify what the moving party is asking the Court to do.
14. All documents filed with the Clerk of Court must contain an original signature, and must be mailed to the Court at the following address:

U.S. District Court
222 West 7th Avenue, #4
Anchorage, Alaska 99513

15. The Clerk of Court is directed to send Plaintiff: (1) a copy of this order, (2) three AO 440 summons form, (3) motion form PS12, and (4) a copy of the Court's *pro se* handbook, "Representing Yourself in Alaska's Federal Court."

DATED this 17th day of January, 2023, at Anchorage, Alaska.

/s/ Sharon L. Gleason
UNITED STATES DISTRICT JUDGE