

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

NORMAN WAYNE JONES,

Plaintiff,

v.

Case No: 2:12-cv-285-FtM-29SPC

**ROB LEOCADIO, PATRICK
MCMANUS, and KEVIN RAMBOSK,**

Defendants.

_____ /

ORDER

This matter comes before the Court on review of the file. The Court notes that further forms and information are needed so that service may be effectuated on Defendant Kevin Rambosk.

Accordingly, it is now **ORDERED:**

(1) Plaintiff must complete each of the enclosed forms for Defendant Rambosk:

A. Notice of Lawsuit and Request for Waiver of Service of Summons

Plaintiff shall complete blanks A-F on the Notice of Lawsuit and Request for Waiver of Service of Summons Form. Plaintiff should write in "30" in Blank F. **PLAINTIFF MUST SIGN THE NOTICE OF LAWSUIT AND REQUEST FOR WAIVER OF SERVICE OF SUMMONS FORM.** Plaintiff should not fill in the date in the line that reads: "I affirm that this request is being sent to you on behalf of the plaintiff, this _____ day of _____."

Plaintiff must return the original and one copy of the completed Notice of Lawsuit and Request for Waiver of Service of Summons.

B. Waiver of Service of Summons

Plaintiff shall write his name in the top blank of the form. Plaintiff must return the original and one copy of the completed Waiver of Service of Summons.

C. Summons and Marshal's forms (Form 285)

Plaintiff is required to fill in the name(s) and address(es) of Defendant(s) in the appropriate spaces on the summons and marshal's forms. Plaintiff shall fill in "21" as the number of days allowed to answer. **PLAINTIFF MUST SIGN THE 285 FORM.**

- (2) Plaintiff must then mail the completed forms to the Clerk's Office within **thirty (30) days** from the date on this Order. Failure to return the completed forms within this time period may result in the imposition of sanctions including the dismissal of this action against those Defendants without further notice.
- (3) Once the forms are received, the United States Marshal shall mail one copy of the Civil Rights Amended Complaint and attachments, the Notice of Lawsuit and Request for Waiver of Service of Summons, the Waiver of Service of Summons, and this Order to Defendant Kevin Rambosk within **TWENTY (21) DAYS** of this Order. **The Marshal shall fill in the date of mailing in the blanks at the end of the Notice of Lawsuit and Request for Waiver of Service of Summons that reads: "I affirm that this request is being sent to you on behalf of the plaintiff, this _____ day of _____."** The Marshal shall send the Defendants a stamped, self-addressed envelope for returning the Waiver of Service of Summons to the Court. All costs of mailing shall be advanced by the United States. The Marshal shall send a copy of the Notice of Lawsuit and Request for Waiver of Service of Summons form to the Clerk's Office so that the Clerk's Office will have a record of the date it was sent.
- (4) Defendants shall have **THIRTY (30) DAYS** from the date that the Waiver of Service of Summons was sent to return it, if they choose to do so. **If Defendant chooses to return the Waiver of Service of Summons, he should use the addressed, stamped envelope provided.**

- (5) If a Defendant returns the Waiver of Service of Summons, Defendant shall have **SIXTY (60) DAYS** from the date that the Waiver of Service of Summons was sent in which to answer or otherwise respond to the complaint.
- (6) **If a Defendant does not return the Waiver of Service of Summons, the Marshal is directed to personally serve that Defendant and the Court will issue a separate order and shall assess that Defendant the costs of service.** That Defendant shall then have **TWENTY (21) DAYS** from the date of personal service of process in which to answer or otherwise respond to the complaint.¹
- (7) The **Clerk of Court** shall forward the following forms: (1) Notice of Lawsuit and Request for Waiver of Service of Summons (two-part form); (2) Summons; and, (3) United States Marshall Service (Form 285) to Plaintiff.

DONE and ORDERED in Fort Myers, Florida this 29th day of August, 2012.


SHERI POLSTER CHAPPELL
UNITED STATES MAGISTRATE JUDGE

Copies: All Parties of Record

¹The Prison Litigation Reform Act of 1995, Title VIII, Section 803, Suits by Prisoners, provides, in pertinent part:

(g) WAIVER OF REPLY. (1) Any defendant may waive the right to reply to any action brought by a prisoner in any jail, prison, or other correctional facility under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983) or any other Federal law. Notwithstanding any other law or rule of procedure, such waiver shall not constitute an admission of the allegations contained in the complaint. No relief shall be granted to the plaintiff unless a reply has been filed.

(2) The court may require any defendant to reply to such complaint if it finds that the plaintiff has a reasonable opportunity to prevail on the merits.

Additionally, Fed. R. Civ. P. 4(d) makes clear that "a defendant is duty-bound to avoid the unnecessary costs of formal personal service of process, or risk being taxed with costs of service."