

Purpose of form:

To lessen the cost of litigation and to permit the defendant to have an additional time period to file an answer. This is only an appropriate alternative if the plaintiff reasonably believes that the defendant will actually acknowledge and waive service of process. This applies to civil cases only, and would not be appropriate for dispossessory actions, foreclosures of motor vehicles or other criminal proceedings.

Helps Plaintiff

Expedites service in appropriate cases.

Saves the additional court costs of paying the sheriff's department to serve process.

Helps Defendant

Saves the additional court costs of paying the sheriff's department to serve process. These costs would be assessed against defendant if defendant loses the case.

Grants the defendant an additional 30 days to file an answer.

Avoids the possible embarrassment of being publicly served with process by a deputy in uniform in a marked patrol car.

MAGISTRATE COURT OF _____ COUNTY, GEORGIA

Date Filed _____

Case No: _____

Plaintiff(s) Name, Address
vs

**NOTICE OF LAWSUIT AND REQUEST FOR
WAIVER OF SERVICE OF SUMMONS**

Defendant(s) Name, Address

**OFFER TO EXTEND TIME TO FILE ANSWER TO
SIXTY (60) DAYS FROM THE DATE THIS WAIVER IS SENT**

TO: _____

(Name of individual defendant or name of officer or agent of corporate defendant) as (title, or other relationship of individual to corporate defendant) of (name of corporate defendant to be served, if any)

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.** The complaint has been filed in the Magistrate Court of _____ County for the State of Georgia in and for the County of _____ and has been assigned the case number set forth above.

This is not a formal summons or notification from the court, but rather my request pursuant to Code Section 9-11-4 of the Official Code of Georgia Annotated (**See attached sheet**) 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 (or 60 days if located outside any judicial district of the United States) after the date designated below as the date on which this Notice of Lawsuit and Request for Waiver of Service of Summons 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 of Service is also attached for your records. **YOU ARE ENTITLED TO CONSULT WITH YOUR ATTORNEY REGARDING THIS MATTER.**

If you comply with this request and return the signed Waiver of Service, the waiver 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 that you will not be obligated to answer or otherwise respond to the complaint within 60 days from the date designated below as the date on which this notice is sent (or within 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 Georgia Rules of Civil Procedure and then, to the extent authorized by those rules, I will ask the court to require you (or the party on whose behalf you are addressed) to pay the full cost of such service in the event I prevail in this case. In that connection, please read the statement concerning the duty of parties to avoid unnecessary costs of service of summons, which is set forth on the Notice of Duty to Avoid Unnecessary Costs of Service of Summons enclosed herein.

I stipulate that I agree to be bound by the provisions of O.C.G.A. 9-11-4.

I affirm that this Notice of Lawsuit and Request for Waiver of Service of Summons is being sent to you on behalf of the Plaintiff on this date: _____.

Signed:	
Type or Print Name of Plaintiff:	
Type or Print Name of Plaintiff's Attorney, if applicable:	
Bar # of Plaintiff's Attorney:	
My Address to Which a Copy of the Waiver of Service of Summons Should be Returned:	

Checklist of Items Attached:

	Copy of filed copy of Statement of Claim (complaint) & all exhibits attached to the complaint. Attach additional copies for each respective defendant.
	Two (2) copies of the Waiver of Service of Summons & Acknowledgment That Answer to the Complaint Must be Filed Within 60 Days After the Date This Waiver Was Sent. Duplicate SAME documents for each respective defendant.
	Self-addressed return envelope with sufficient postage thereon for return to plaintiff or plaintiff's attorney for each respective defendant.
	File Original of this document with Clerk of Court for each defendant.

**O.C.G.A. 9-11-4
NOTICE OF DUTY TO AVOID UNNECESSARY
COSTS OF SERVICE OF SUMMONS**

Subsection (d) of Code Section 9-11-4 of the Official Code of Georgia Annotated requires certain parties to cooperate in saving unnecessary costs of service of the summons and the pleading. 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 a summons, fails to do so will be required to bear the cost of such service unless good cause be shown for such defendant's 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 the 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 also must file a signed copy of the response with the court. If the answer 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 been actually served when the request for waiver of service was received.

While the Civil Practice Act, including 9-11-4 does not specifically apply to Magistrate Court, there are mutual advantages to both the plaintiff and defendant in minimizing court costs, avoiding be served by a uniformed deputy and increasing the time to file an answer for the defendant.