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November 12, 2021

The Honorable Robert Dow, Jr.  
Chair, Advisory Committee on Civil Rules  
c/o Rules Committee Staff  
RulesCommittee\_Secretary@ao.uscourts.gov

**Re: Proposed modification to Rule 4(d)(1)**

Dear Judge Dow:

I write to propose an amendment to Rule 4(d)(1) of the Federal Rules of Civil Procedure to bring the text into better alignment with contemporary legal practice. Rule 4(d)(1) allows a plaintiff to request a waiver of service from a defendant, in order to avoid the cost of service. In order to obtain a waiver, the plaintiff presently must send to the defendant via first class mail two copies of the approved waiver form, along with a prepaid means for returning the form to the plaintiff. My proposal is to provide a means for the plaintiff to request a waiver of service by electronic mail in the alternative.

I am an employment lawyer who represents employees. My practice when a new client wants to assert her legal rights is to send a letter to the employer. This generally prompts a response from the employer's lawyer and a negotiation between the parties, often resulting in a resolution. If the dispute cannot be resolved and the matter eventually proceeds to the filing of a lawsuit in court (after the exhaustion of any administrative remedies), I already know the lawyer for the defendant, with whom I almost always have corresponded by email. When I am ready to serve the complaint under Rule 4, and I want to request the waiver of service under Rule 4, I generally start with an email to the defendant's lawyer. I explain the request, and I include a link to the approved waiver form, which the Administrative Office helpfully provides online as a fillable PDF at this link. (See <https://www.uscourts.gov/sites/default/files/ao399.pdf>.) In most cases, defense counsel will fill out the form, sign it electronically, and return it to me for filing with the Court. This process is efficient, easily documented through my email server, and – since it avoids both printing and postage – free.

Unfortunately, Rule 4(d)(1) does not currently provide for this method of requesting the waiver of service. I suggest that the Rules Committee consider amending the Rule to allow for this method as an alternative to first class mail. Plaintiffs or their counsel who do not know defense counsel or do not have access to email could continue to use the currently prescribed method. But the ability to request and receive a waiver entirely by email would be a welcome change.

Thank you for your consideration of my proposal. I welcome any requests for clarification or additional information.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'J. Goodbaum', with a long horizontal flourish extending to the right.

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