



3. Plaintiff Stephen Garlick (“Plaintiff Garlick”) is a resident of the City of Pawtucket, County of Providence, and State of Rhode Island.

4. Plaintiff Manuel Benevides (“Plaintiff Benevides”) is a resident of the Town of Warren, County of Bristol, and State of Rhode Island.

5. Plaintiff Scott McDonald (“Plaintiff McDonald”) is a resident of the Town of Millville, County of Worcester, and Commonwealth of Massachusetts.

6. Plaintiff Steven Como (“Plaintiff Como”) is a resident of the Town of North Scituate, County of Providence, and State of Rhode Island.

7. Unless otherwise specified, the term “Plaintiffs” as hereinafter used shall refer collectively to each and every Plaintiff named or described in the within action.

8. Defendant City of Pawtucket (“Pawtucket” or “City”) is a municipal corporation duly authorized and organized under the laws of the State of Rhode Island and is sued by and through its Finance Director, Mark Stankiewicz, alias, the official designated by state law, R.I. Gen. Laws § 45-15-5, to be named in a suit for relief against the Defendant City.

9. Defendant Mario Comella, alias (“Defendant Comella”) is sued individually and in his official capacity as a police officer in the City Police Department.

10. Defendant John Trenteseaux, alias (“Defendant Trenteseaux”) is sued individually and in his official capacity as the Fire Chief of the City Fire Department.

11. Unless otherwise specified, the term “Defendants” as hereinafter used shall refer collectively to each and every Defendant named or described in the within action.

### **III. Jurisdiction**

12. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1343, 1367, 2201 and 2202.

#### **IV. Venue**

13. Venue is proper in this Court since, on information and belief, all of the Defendants reside or may be found in the District of Rhode Island in compliance with the requirements set forth in 28 U.S.C. §1391. Venue is also proper because all of the acts or omissions giving rise to the claims occurred in the District of Rhode Island.

#### **V. Material Facts**

##### **A. Background**

14. Plaintiff LeBlanc has been a Pawtucket Firefighter for over ten (10) years.

15. Plaintiff Garlick has been a Pawtucket Firefighter for thirty-six (36) years.

16. Plaintiff Benevides has been a Pawtucket Firefighter for almost six (6) years.

17. Plaintiff McDonald has been a Pawtucket Firefighter for almost seven (7) years.

18. Plaintiff Como has been a Pawtucket Firefighter for almost seven (7) years.

19. Plaintiffs and their fellow Pawtucket Firefighters (“firefighter” or “firefighters”) endure demanding schedules, often involving overnight and 24-hour shifts.

20. This necessitates that Plaintiffs and other firefighters spend significant amounts of time at the Pawtucket fire station located at 385 Newport Avenue (“fire station”), where they engage in normal living activities such as eating, sleeping, personal care, and attending to personal matters, subject to the demands of their duties.

21. The fire station is equipped with dedicated facilities for sleeping, showering, eating, and relaxation, reserved exclusively for firefighter use.

22. These amenities are located in two specialized, private sections of the fire station, designed to function as residential areas for firefighters during their shifts, one smaller area for rescue officers and one larger area for everyone else.

23. As a result of the fire station's layout, which segregates work and residential areas, along with the long shifts and other conditions and requirements of their work, each firefighter is entitled to two distinct lockers for their use.

24. One locker, situated in the work-related section of the station, is used to store professional gear and firefighting equipment ("work lockers").

25. The other locker, located in the private residential areas, is for personal belongings and private use ("personal lockers").

26. The personal lockers underscore the dual-role of the fire station as both workplace and temporary home for the firefighters.

27. These personal lockers are used only for personal items and no work materials, items, or equipment are stored in them.

28. There is a strict segregation of work material and personal effects between the two lockers, and each locker is used exclusively for either work or personal items, respectively.

29. At all relevant times, Plaintiffs and other firefighters kept and keep personal and private items such as prescription medicine, toiletries, clothing, bedding, wallets, personal electronics, including tablets and laptops, and personal mail, including bank and credit card statements and correspondence, in their personal lockers.

30. The fire station, and thus the residential areas where the personal lockers are located, can only be accessed using a key fob and are not open to the public.

31. The residential areas are effectively the firefighters' home away from home during their long shifts and are an essential area of private and personal space which allows them to perform their job duties and work for such long and continuous periods of time.

32. Plaintiffs and other firefighters choose a specific personal locker from those lockers available in these residential areas.

33. At least eleven (11) firefighters, including Plaintiffs LeBlanc, Garlick, Benevides, and McDonald have personal lockers at the fire station in the larger, private, residential area, while at least four (4), including Plaintiff Como, have lockers in the smaller, private, residential area.

34. There was and is no written policy regarding these personal lockers.

35. Nevertheless, at all relevant times, there has been an accepted and uniform practice relative to the exclusive and private use of personal lockers.

36. There is no sharing of personal lockers or using of different personal lockers on different days.

37. Once a firefighter chooses a personal locker, it is his or her personal locker exclusively.

38. The uniform practice, custom, and policy among the members of the Pawtucket Fire Department is that personal lockers are private; no one accesses a firefighter's personal locker without his or her permission.

39. Indeed, Plaintiffs and other firefighters would, without a second thought, leave personal items, cash, and valuables in their personal lockers without worry or concern, reflecting the understanding that their personal lockers are their own personal, private space within the distinct and secure residential areas of the station that serves as their home away from away during their long shifts.

40. The uniform practice, custom, and policy of privacy in one's personal locker and its contents was accepted and followed by both the firefighters and their superiors, including Defendant Trenteseaux, who had never accessed a firefighter's personal locker during the employment of any Plaintiff or anyone they spoke with about the issue until the events at issue herein.

41. Similarly, at all relevant times, there had never been any indication that a firefighter's personal locker was anything but private or that anyone would ever access a particular firefighter's personal locker without their express authorization.

42. This practice, custom, and policy is a reflection and a recognition of the fact the Plaintiffs and other firefighters' personal lockers are not just a perk of the job; they are effectively an extension of each firefighters' own home, without which they would be unable to work the long, continuous shifts their jobs require of them.

### **B. Unconstitutional Locker Search**

43. On Tuesday, September 5, 2023, between approximately 9:00 a.m. and 10:00 a.m., Defendant Trenteseaux and, on information and belief, Defendant Comella and/or another City police officer acting in concert and/or under his direction and/or with his authorization, entered the secure residential areas of the station where the personal lockers are located and conducted a search of Plaintiffs' and other firefighters' personal lockers.

44. Just prior to the search, Defendant Trenteseaux requested that the Engine and Rescue at the fire station be sent to the repair shop and headquarters so that no firefighter was present at the fire station during the search.

45. Defendants gave no warning, sought no consent, and certainly received no consent from any Plaintiff before conducting said search.

46. Defendants searched Plaintiffs' private, personal lockers, rifling through and inspecting the private and personal property of Plaintiffs without consent or other legal authorization.

47. Plaintiff LeBlanc kept, along with clothing and toiletries, his personal iPad and his paystubs in his personal locker.

48. Along with clothing, bedding, and toiletries, Plaintiff Garlick kept personal financial documents and his prescription medication, which included identifying and private information, including his name, the medications prescribed, and what the medications were prescribed for, in his personal locker.

49. Along with clothing, toiletries, and gaming electronics, Plaintiff Benevides kept his personal mail and financial documents, including bank and credit statements, in his personal locker.

50. Along with clothing, bedding, and toiletries, Plaintiff McDonald kept his prescription medication, which included identifying and private information, including his name, the medications prescribed, and what the medications were prescribed for, and his personal laptop in his personal locker.

51. Along with clothing and toiletries, Plaintiff Como kept prescription medication which included identifying and private information, including his name, the medications prescribed, and what the medications were prescribed for, as well as his personal iPad and paystubs, in his personal locker.

52. In searching Plaintiffs' personal lockers, Defendants Comella and Trenteseaux thus violated Plaintiffs' right to be free from unreasonable searches and their right to privacy.

### **C. Reasonable Expectation of Privacy in Personal Lockers**

53. Prior to the search, on or about August 30, 2023, Defendant Comella had sought and obtained a search warrant for a 2012 Silver Ford F-150, combination license plate RI 1JS865, owned and operated by firefighter Patrick White ("White").

54. Defendant Comella provided a signed affidavit in support of this request for a warrant based on a complaint that White was transporting firearms in that vehicle and observations from a partial search of that vehicle Defendant Comella had conducted before applying for the warrant.

55. Based on this affidavit, a search warrant was issued by Rhode Island District Court Judge Stephen M. Isherwood for the 2012 Silver Ford F-150, combination license plate RI 1JS865.

56. This search warrant did not extend to White's personal locker and there was no indication White brought anything into the station or that there was anything of interest in White's locker.

57. Defendant Comella made no mention of personal lockers or any search of lockers or anything else in the station in his application for a warrant.

58. Similarly, the search warrant did not authorize or make any mention of a search of the personal lockers of any firefighters.

59. Plaintiffs had absolutely nothing to do with any firearms in White's possession beyond being co-workers of White.

60. Neither in seeking this warrant nor after obtaining it did Defendant Comella seek a warrant for White's locker, for Plaintiffs' lockers, or for firefighters' lockers more generally.

61. More specifically, Defendants sought no judicial approval for their search of Plaintiffs' and other firefighters' personal lockers.

62. As the search of Plaintiffs' personal lockers was exclusively the result of Defendant Comella's criminal investigation of White, it is clear that the search was criminal in nature, rather than for any legitimate, work-related reason.

63. The fact that this search was not work-related is further evidenced by the fact that there were no work-related materials or City property stored in the personal lockers.

64. Work-related materials and City property were never stored therein but were always stored in the totally separate work lockers of each firefighter.



65. Similarly, personal lockers of firefighters, including Plaintiffs, had never been subject to search before and the uniform practice, custom, and policy of Defendant City Fire Department was that the personal lockers were private, and that this privacy would be respected.

#### ***Municipal Liability***

66. According to the provisions of the Pawtucket City Code, Defendant Trenteseaux is the chief policy maker of the Defendant City Fire Department.

67. Defendant Trenteseaux, in direct contradiction to the established practice, custom, and policy of Defendant City Fire Department, and without any warning, notice, or discussion with Plaintiffs or other firefighters, purported to authorize and take part in a search of their personal lockers without reasonable suspicion or work-related reason.

68. The constitutional protections relative to searches and seizures in the workplace and workplace searches of private property are clearly established.

69. Defendant Trenteseaux knew or should have known that his suspicion-less, warrantless, and nonwork-related search of Plaintiffs' personal lockers violated Plaintiffs' constitutional right to be free from unreasonable searches.

#### ***Intentional Conduct***

70. In searching Plaintiffs' personal lockers without a warrant, reasonable suspicion, a work-related reason, or consent, Defendants violated Plaintiffs' right to be free from unreasonable searches and their right to privacy.

71. At all relevant times, Defendants acted intentionally, willfully, maliciously, and/or with deliberate, reckless, or callous indifference to Plaintiffs' clearly established constitutional rights.

72. Furthermore, at all relevant times, Defendants knew or should have known that their conduct would cause or contribute to the deprivation of Plaintiffs' clearly established constitutional rights.

73. At all relevant times, Defendants were motivated by malice, wantonness and/or willfulness of an extreme nature.

### ***Harm and Damages***

74. As a direct and proximate result of the said acts and/or omissions of the Defendants, Plaintiffs suffered the following injuries and damages:

- a. Violation of their constitutional rights under the Fourth and Fourteenth Amendments to the United States Constitution, and Article 1, § 6 of the Rhode Island Constitution;
- b. Violation of their rights to privacy established and protected by the Rhode Island Right to Privacy Act, R.I. Gen. Laws §9-1-28.1;
- c. Illegal intrusion into their personal lives, effects, and possessions;
- d. Pain, suffering and emotional trauma;
- e. Continuing fear of arbitrary searches without reasonable suspicion of their personal lockers;
- f. Continuing fear of illegal intrusion into their personal lives, effects, and possessions; and,
- g. Other great harm.

### **VI. Claims for Relief**

75. Plaintiffs incorporate in the counts below the allegations contained in ¶¶1 through 74 above.

**COUNT ONE**

***Unlawful Search in Violation of Right to Freedom From Unreasonable Search and Seizure in Violation of 42 U.S.C. § 1983***

76. Defendants, acting under the color of state law, by their individual and/or concerted acts and/or omissions, including but not limited to those described herein, have violated Plaintiffs' rights to freedom from unreasonable searches, causing Plaintiffs to suffer harm as aforesaid, and have thereby deprived Plaintiffs of rights secured under the Fourth and Fourteenth Amendments to the United States Constitution, actionable pursuant to 42 U.S.C. § 1983.

**COUNT TWO**

***Unlawful Search in Violation of Right to Freedom From Unreasonable Search and Seizure in Violation of Article 1, § 6 of the Rhode Island Constitution***

77. Defendants, acting under the color of state law, by their individual and/or concerted acts and/or omissions, including but not limited to those described herein, violated Plaintiffs' rights to freedom from unreasonable searches, causing Plaintiffs to suffer harm as aforesaid, and have thereby deprived Plaintiffs of rights secured under Article 1, § 6 of the Rhode Island Constitution, directly actionable in accordance with *Jones v. State of Rhode Island*, 724 F. Supp. 25 (D.R.I. 1989).

**COUNT THREE**

***Infringement on the Right to Privacy Established and Protected by R.I. Gen. Laws §9-1-28.1.***

78. Defendants violated Plaintiffs' right to privacy and to be free from unreasonable intrusion into their, personal concerns, matters, and effects,<sup>1</sup> in violation of the Rhode Island Right to Privacy Act, R.I. Gen. Laws §9-1-28.1, thereby causing Plaintiffs to sustain harm as aforesaid.

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<sup>1</sup> The right to privacy protects against an intrusion upon seclusion which may take the "form of investigation or examination into his private concerns, as by opening his private and personal mail, searching his safe or his wallet, examining his private bank account, or compelling him by a forged court order to permit an inspection of his personal documents" as happened here. Restatement (Second) of Torts § 652B (1977). The Rhode Island Supreme Court has explicitly recognized that R.I. Gen Laws § 9-1-28.1 is a codification of the right to privacy as described in the Restatement (Second) of Torts. *Pontbriand v. Sundlun*, 699 A.2d 856, 863 (R.I. 1997)("In 1980 the Legislature enacted P.L.1980, ch. 403, § 1, codified as G.L.1956 § 9-1-28.1, making it 'the policy of this state that every person in this state shall have a right to privacy.' Section 9-1-28.1(a). In passing § 9-1-28.1, the Legislature explicitly afforded protection to the four interests encompassed within the 'common law tort' recognized by the Restatement though not recognized as such in this state."). That medical records, including medical prescriptions, can also be included within the ambit of this

## VII. Prayers for Relief

**WHEREFORE**, Plaintiffs pray that this Court grant the following relief:

1. An appropriate form of declaratory judgment declaring that the actions of the Defendants complained of violated the Plaintiffs' rights to be free from unreasonable searches, actionable pursuant to 42 U.S.C. § 1983, Article 1, § 6 of the Rhode Island Constitution, directly actionable in accordance with *Jones v. State of Rhode Island*, 724 F. Supp. 25 (D.R.I. 1989), and their right to privacy under the Rhode Island Right to Privacy Act, R.I. Gen. Laws §9-1-28.1;

2. Preliminary and permanent injunctions directing the Defendant City and its agents, named Defendants and otherwise, to refrain from any further searches of Plaintiffs and other firefighters' personal lockers and personal effects stored therein without first obtaining a search warrant;

3. Preliminary and permanent injunctions directing the Defendant City to properly train, instruct, supervise, and/or discipline its agents with regard to the Plaintiffs' right to privacy and right to be free from unreasonable searches of firefighter personal lockers and personal effects stored therein;

4. Preliminary and permanent injunctions requiring Defendants to seal and destroy all records, photographs, documents, inventories, lists, and other information obtained as a result of the search complained of herein;

5. An award of compensatory damages;

6. An award of punitive damages;

7. An award of reasonable attorney's fees and costs of litigation pursuant to 42 U.S.C. § 1988 and/or R.I. Gen. Laws §9-1-28.1;

8. Such other and further relief as this Court deems just and proper.

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right has also been recognized by the Rhode Island Supreme Court. *Washburn v. Rite Aid Corp.*, 695 A.2d 495, 500 (R.I. 1997).

**VIII. Demand for Jury Trial**

Plaintiffs hereby demand a trial by jury on all counts so triable.

**IX. Designation of Trial Counsel**

Plaintiffs hereby designate Danilo A. Borgas, Esquire and Richard A. Sinapi, Esquire, as trial counsel.

Plaintiffs,  
By their attorneys,  
**SINAPI LAW ASSOCIATES, LTD.**

**Date: December 4, 2023**

**/s/ Danilo A. Borgas**  
**Danilo A. Borgas, Esq. (#9403)**  
**Richard A. Sinapi, Esq. (#2977)**  
**Cooperating Counsel,**  
**American Civil Liberties Union Foundation of**  
**Rhode Island**  
2374 Post Road, Suite 201  
Warwick, RI 02886  
Phone: (401) 739-9690  
FAX: (401) 739-9040  
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[ras@sinapilaw.com](mailto:ras@sinapilaw.com)

Of counsel:

**/s/ Lynette Labinger**  
**Lynette Labinger, Esq. (#1645)**  
**Cooperating Counsel,**  
**American Civil Liberties Union Foundation of**  
**Rhode Island**  
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Phone: (401) 465-9565  
Email: [ll@labingerlaw.com](mailto:ll@labingerlaw.com)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

NOAH LEBLANC, STEPHEN GARLICK, MANUEL BENEVIDES, SCOTT McDONALD and STEVEN COMO

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Sinapi Law Associates, Ltd. 2374 Post Road, Suite 201, Warwick, RI 02886, 401-359-4327

DEFENDANTS

CITY OF PAWTUCKET, by and through its Finance Director, Mark Stankiewicz, alias, et al.

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 42 U.S.C. § 1983, Article 1, §§ 2 and 6

Brief description of cause: Violation of Fourth and Fourteenth Amendments to U.S. Constitution

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE DOCKET NUMBER

DATE 12/04/2023 SIGNATURE OF ATTORNEY OF RECORD /s/Danilo A. Borgas

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

AO 440 (Rev. 06/12) Summons in a Civil Action

**UNITED STATES DISTRICT COURT**

for the

\_\_\_\_\_ District of \_\_\_\_\_

\_\_\_\_\_  
*Plaintiff(s)*

v.

\_\_\_\_\_  
*Defendant(s)*

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Civil Action No.

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_ .

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*: \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:



AO 440 (Rev. 06/12) Summons in a Civil Action

**UNITED STATES DISTRICT COURT**

for the

\_\_\_\_\_ District of \_\_\_\_\_

\_\_\_\_\_

*Plaintiff(s)*

v.

\_\_\_\_\_

*Defendant(s)*

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on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

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Date: \_\_\_\_\_

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*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

**UNITED STATES DISTRICT COURT**

for the

\_\_\_\_\_ District of \_\_\_\_\_

\_\_\_\_\_  
*Plaintiff(s)*

v.

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*Defendant(s)*

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I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: