

Alan P. Petrofsky  
3618 Alameda Apt 5  
Menlo Park CA 94025

October 30, 2005

BY CERTIFIED MAIL, ARTICLE NUMBER 7005 1160 0004 0082 1092

Markus B. Zimmer, Clerk  
United States District Court, District of Utah  
350 S Main St  
Salt Lake City UT 84101

Re: Merkey v. Perens et al., 2:05CV521DAK-SA,  
and the "United States District Court DISTRICT OF".

Dear Mr. Zimmer:

Enclosed please find a copy of a document dated August 23, 2005. It was included with a "Request For Waiver of Service For Summons" that I received by certified mail, from Jeffrey Vernon Merkey, on August 30.

At the top of the document is written "United States District Court DISTRICT OF". It later states that I am required to perform two actions:

- (1) serve an answer upon "name and address";
- (2) file the answer with "the Clerk of this Court".

None of the names of the ninety-four United States District Courts are written anywhere on the document, nor is the address of any clerk. The only state that even has its abbreviation written anywhere on the document is California.

This document is clearly not a summons in the form prescribed by Fed. R. Civ. P. Rule 4(a), most notably because it does not "identify the court" that would be doing the summoning. It also does not "state the name and address of the plaintiff's attorney or, if unrepresented, of the plaintiff".

By this letter, I am not requesting any action or response. I am merely bringing the document to your attention, because I recently learned that Merkey may believe that my receipt of the document constituted service of a summons for a case in your district: Merkey v. Perens et al., 2:05CV521DAK-SA. (In Merkey's last communication to me about process, an email dated September 13, he was still inquiring about his waiver request; and on September 27, he dismissed the action, without ever having filed an affidavit that a summons had been served. However, I have now received a copy of a memorandum dated October 20, in which Merkey claims, for the first time, that a summons was served on August 30.)

I will continue to assume that if the District of Utah should ever wish to summon me, then I will be served with a summons that identifies itself as having been issued by the District of Utah.

Yours truly,

  
Alan P Petrofsky

enclosures: copies of: a document from "United States District Court DISTRICT OF", dated August 23, 2005; my letter to Merkey dated September 6; and an email from Merkey dated September 13.  
cc: Jeffrey Vernon Merkey, 1058 E 50 S, Lindon UT 84042,  
by Certified Mail, article number 7005 1160 0004 0082 1108.

# United States District Court

DISTRICT OF

*Jeffrey Vernon Merkey*

**SUMMONS IN A CIVIL CASE**

**v.**

CASE NUMBER: *2:05 CV 521-DAK-SJ*

*Alan P. Petrofsky, et al.*

TO (Name and address of defendant)

*Alan P. Petrofsky  
3618 Alameda Apt 5  
Menlo Park, CA 94025*

**YOU ARE HEREBY SUMMONED** and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

MARKUS B. ZIMMER

CLERK

*August 23, 2005*  
DATE

*[Signature]*  
(BY) DEPUTY CLERK

Alan P. Petrofsky  
3618 Alameda Apt 5  
Menlo Park CA 94025

September 6, 2005

BY CERTIFIED MAIL, ARTICLE NUMBER 7004 0750 0000 9136 9935

Jeffrey Vernon Merkey  
1058 E 50 S  
Lindon UT 84042

Re: Waiver request for Merkey v. Jones et al.

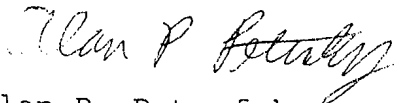
Dear Mr. Merkey:

I have received your request, dated August 25, 2005, for a waiver of service pursuant to Rule 4(d) of the Federal Rules of Civil Procedure.

Your request did not include the required "prepaid means of compliance" (Rule 4(d)(2)(G)), despite that requirement being clearly noted right on the waiver request form, where it calls for "a stamped and addressed envelope (or other means of cost-free return)".

If you actually desire to prosecute this frivolous case (and face the court sanctions and civil liability for doing so), then please send me a stamped and addressed envelope for the waiver's return.

Yours truly,



Alan P. Petrofsky

Date: Tue, 13 Sep 2005 16:45:13 -0600  
From: jmerkey <jmerkey@utah-nac.org>  
To: Alan P Petrofsky <al@petrofsky.org>  
Subject: Rule 4 Notice of Alternate Service  
Message-ID: <43275679.8060508@utah-nac.org>

Dear Mr. Petrofsky,

I received your letter demanding a stamped envelope. I believe one was mailed to you. If you were unable to find it, you may send me the waiver regular mail, and I will reimburse your .37 stamp for you. You already have my address.

If you fail to send the waiver as required by Rule 4, I will hire a process server and I will have you billed for the process of service. You can also call for my FEDEX account number and send me the waiver via FEDEX and have FEDEX call me directly and I will provide them either a credit card for billing of the postage or my FEDEX account number. If 30 days elapse, I will have you served and sanctioned.

Jeff