

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Electronic Privacy Information Center,)	
)	
Plaintiff,)	
)	
v.)	Case 1:16-cv-1402 (ABJ)
)	
U.S. Department of Justice,)	
)	
Defendant.)	

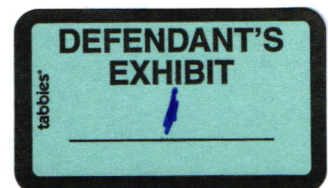
I, Daniel F. Van Horn, do hereby declare that:

1. I am an Assistant United States Attorney for the District of Columbia. I have held that position since 1992. I am currently assigned as the Chief of the Office's Civil Division. I have been a practicing attorney in public and private sector positions in the District of Columbia for more than 39 years.

2. Document 6 on the Court's electronic civil docket for the above-captioned civil action includes an Affidavit of Mailing (Document 6-4) in which a representative of the plaintiff states:

On the 6th day of July, 2016, I caused to be deposited in the United States Mail a copy of the summons and complaint in the above captioned case, postage prepaid, return receipt requested, restricted delivery, addressed to the following defendant: U.S Attorney for the District of Columbia, c/o Civil Process Clerk, 555 4th St., NW; Washington, DC 20530. I have received the receipt for certified mail, No. 7015 1520 0000 5320 5183 (attached hereto), indicating that delivery of the summons and complaint was made upon said defendant on the 11th day of July, 2016.

No return receipt for the referenced certified mail item is attached to Document 6, but a USPS Tracking print-out (Document 6-5) that is attached to Document 6 states that item number 7015 1520 0000 5320 5183 was delivered at 4:43 a.m. on July 11, 2016, to "WASHINGTON, D.C. 20530".



3. The United States Attorney's Office for the District of Columbia is located at 555 Fourth Street, NW, Washington, D.C., the address to which item number 7015 1520 0000 5320 5183 was sent. However, because of the safety precautions implemented in response to the anthrax attacks in 2001, mail addressed to our Office is initially routed through the main mail room for the Department of Justice. This is accomplished through use of the ZIP Code 20530, and does at times result in delayed delivery or misrouting of mail intended for our Office, as indicated in our Office's latest Fed. R. Civ. P. 4 letter that was sent from the United States Attorney to the Court's Clerk on June 16, 2016. A copy of that Rule 4 letter is attached.

4. Only certain employees of the United States Attorney's Office are authorized to receive service of civil actions on behalf of the United States Attorney. None of the personnel who work at the Department of Justice's mail room are employees of our Office, none of them have been designated to function as a civil process clerk for our Office, and none of them are authorized to receive service of civil actions on behalf of the United States Attorney.

5. Our Office's procedure for recording receipt of service in a civil action is for a civil process clerk or other authorized person to write the date on which he or she receives the summons and complaint and the name of the case and the civil action number in a calendar book (the "Service Book") maintained for that purpose. I have reviewed the entries made in the Service Book starting on July 11, 2016, and found no entry reflecting receipt of the summons and complaint for the above-captioned civil action.


6. The Civil Division of our Office also maintains a Certified Mail Log with the item numbers for all incoming certified mail received by the Civil Division. A member of the Civil Division's staff has reviewed the entries made in that Certified Mail Log for the period starting on

July 11, 2016, and has informed me that there is no entry reflecting receipt of item number 7015 1520 0000 5320 5183.

7. I first learned of the above-captioned case on August 16, 2016, when I received an email sent that same day from an attorney at the Department of Justice inquiring whether an attorney in our Office had been assigned to the case. To the best of my knowledge, no one in our Office was aware of plaintiff's attempt to effect service on the United States Attorney's Office prior to the receipt of that email.

8. I have directed a member of the Civil Division's staff to inquire whether the Department of Justice's main mail room has any record of item number 7015 1520 0000 5320 5183, but have not yet received any information about that certified mail package or what became of its contents.

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 17, 2016.


/s/ Daniel F. Van Horn
DANIEL F. VAN HORN



U.S. Department of Justice

Channing D. Phillips
United States Attorney

District of Columbia

*Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530*

June 16, 2016

Ms. Angela D. Caesar
Clerk of Court
United States District Court
for the District of Columbia
333 Constitution Ave., N.W.
Washington, D.C. 20001

Re: Service of Process on United States Attorney's Office in Civil Actions

Dear Ms. Caesar:

This letter is written pursuant to Fed. R. Civ. P. 4(i)(1)(A) to provide notice of the persons at the United States Attorney's Office who are designated to receive service of process on behalf of the United States in civil actions filed in the United States District Court for the District of Columbia. This letter supersedes and replaces all writings previously filed with the Clerk's Office with respect to this subject.

Service of process by hand delivery may be effected at our Office's Civil Division, which is located on the Fourth Floor of 501 Third Street, N.W., Washington, D.C. The Civil Division's Docket Clerk(s), Lead Legal Assistant, Supervisory Legal Support Specialist, and such other Civil Division clerical staff as the Supervisory Legal Support Specialist may designate from time to time, are the clerical employees to whom hand delivery of process may be made.

Service of process by mail may be effected by sending a copy of the summons and complaint by registered or certified mail addressed to: Civil Process Clerk, United States Attorney's Office, 555 Fourth Street, N.W., Washington, D.C. 20530. Please note that the address for service by mail is different from the address for service by hand, and that those two addresses should not be used interchangeably.

Litigants should be advised that hand delivery is our preferred means for service of process because, due to safety and security procedures that were put in place following the anthrax attacks in 2001 (also known as Amerithrax from the FBI case name), all mail sent to our Office is initially routed through the main mail room at the Department of Justice, which can

occasionally result in the delay or misdelivery of our mail. In addition, when service is made by mail, it is our position that service is not perfected until actual receipt by a Civil Process Clerk. *See Morse v. Elmira Country Club*, 752 F.2d 35, 41 (2d Cir. 1984) (“service was effective where the recipient received the mail and accordingly obtained *actual notice*”) (emphasis added). *See generally Murphy Brothers v. Michette Pipe Stringing*, 526 U.S. 342, 347 (1999) (“Service of process, under longstanding tradition in our system of justice, is fundamental to any procedural imposition on a named defendant”).

Litigants who sue Federal defendants should also be advised that Fed. R. Civ. P. 4(d)(1), which imposes a duty to avoid unnecessary expenses of serving the summons on “[a]n individual, corporation, or association that is subject to service under Fed. R. Civ. P. 4(e), (f), or (h),” does not apply to service on the United States and its agencies, corporations, officers, and employees, which is governed by Fed. R. Civ. P. 4(i). In addition, such litigants should be advised that the United States Attorney’s Office is not authorized to accept service on behalf of the Attorney General of the United States or other federal agencies, corporations, officers, or employees. Thus, if service upon any such entities and persons is required by Fed. R. Civ. P. 4(i), then they must be served separately and in addition to service upon our Office.

Any questions about service of civil actions on the United States Attorney’s Office, or about the matters handled by the Office’s Civil Division, can be directed either to the Civil Chief, Daniel F. Van Horn, or to one of the Deputy Chiefs: Doris Coles Huff, Robin M. Meriweather, and Keith V. Morgan. The Civil Division can be contacted during normal business hours at **(202) 252-2500**. The direct line telephone numbers for the Civil Chief and Deputy Chiefs are as follows:

Daniel F. Van Horn	(202) 252-2506
Doris Coles Huff	(202) 252-2557
Robin M. Meriweather	(202) 252-2538
Keith V. Morgan	(202) 252-2537

For emergency matters outside normal business hours when no one can be reached at the Civil Division’s general telephone number, the Civil Chief and Deputy Chiefs can be contacted through the Department of Justice Command Center at (202) 514-5000.

Sincerely,



CHANNING D. PHILLIPS
United States Attorney

cc: Hon. Beryl A. Howell, Chief Judge