



LEGISLATURE OF PUERTO RICO

## *Office of Legislative Services*

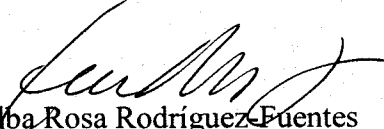
### CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 34 (H.B. 1126) of the 4<sup>th</sup> Session of the 14<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to add subsection 4.3.1. to Rule 4 of the Rules of Civil Procedure of Puerto Rico to establish that the defendant may waiver to be summoned, setting forth that, if there is no just cause for said refusal, the court shall impose the payment of expenses incurred for the processing of the summons,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 30<sup>th</sup> of January of 2004.

  
Elba Rosa Rodríguez Fuentes  
Director

(H. B. 1126)

(No. 34)

(Approved January 2, 2003)

### AN ACT

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### STATEMENT OF MOTIVES

In the Puerto Rican legal system, there are two ways of notifying a person that legal action has been presented against them. The first, by notifying in person by means of a qualified person with a copy of the complaint and the summons, and the second, by publishing the summons in a general circulation newspaper. This second manner of notification may only be used under the circumstances set forth in Rule 4.5 of the Rules of Civil Procedure of Puerto Rico.

In the federal jurisdiction there is a mechanism by means of which the claimant may request from the defendant that same waiver the notification of the summons. Said mechanism consists of sending a letter to the defendant informing same that legal action has been initiated against same, and requesting from the defendant an agreement to not being summoned. Same is also advised that, if same does not agree, without just cause, same shall have to pay the expenses incurred in legal fees for the preparation of a motion to said effects. In the federal level, a large number of summonses are

performed by means of this mechanism. As a general rule, defendants agree to this request.

This method of notifying persons of claims is much more practical and economical than the traditional method we use in Puerto Rico. This Legislative Assembly understands that this mechanism should be included in our Rules of Civil Procedure. For said reason, by means of this Act, we are adding subsection 4.3.1 to Rule 4 of the Rules of Civil Procedure in order to establish that the defendant may waive being summoned, thus setting forth that, if there is no just cause for said refusal, the court shall impose the payment of the expenses incurred in the processing of the summons. This mechanism does not affect or hinder the right to adequate notification of the defendant, since it requires the use of procedures that confirm the receipt of the claim. It also provides for the demonstration of just cause for the waiver of the summons.

***BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:***

Section 1.-Subsection 4.3.1 is hereby added to Rule 4 of the Rules of Civil Procedure of Puerto Rico, and Rule 4.4 is hereby amended to read as follows:

4.1.-...

4.3.1-Waiver of Summons; the duty of the defendant in order to avoid the expenses of the processing of a summons.

(a) A defendant who waives a summons does not waive raising the defense of lack of standing, or requesting the transfer of the case to a court with jurisdiction.

(b) A person of legal age, corporation, company, partnership, association, or any other legal person notified that a claim has been raised

against him has the duty to avoid the expenses for the processing of a summons.

(c) The claimant may notify the defendant that a claim has been raised against him and, in said notification, request that the defendant waive the summons. The notification:

- (1) Must be in writing and addressed to the defendant, if it is an individual, or to an official, administrative manager or general agent, or to any other agent authorized to receive summonses by means of appointment or legal designation, in the case of a corporation, company, partnership, association, or any other legal person;
- (2) Must be sent by certified mail with return receipt requested, or by other reliable means that confirm the receipt of the document;
- (3) Must be accompanied by a copy of the claim and must identify the court at which it was filed;
- (4) Must inform the defendant of the consequences entailed by compliance or non compliance with the request;
- (5) Must allow the defendant a reasonable term to return the waiver, which shall be of at least thirty (30) days, starting on the date in which the request was sent, or sixty (60) days from that date if the defendant is abroad;
- (6) Must provide the defendant with an additional copy of the request, as well as a self-addressed envelope.

If the defendant does not fill out the waiver request, the court shall impose upon same the payment of the expenses incurred in the processing of the summons. However, the court shall not impose the

payment of such expenses if the defendant is able to show just cause for not having filled out the waiver request.

(d) A defendant who promptly returns the summons waiver shall not have to answer the claim until after sixty (60) days after the date in which the request was sent to him, or ninety (90) days, if the defendant is abroad.

(e) The date of the notification of the claim and the summons shall be the same as that in which the claimant submits the summons waiver to the court.

(f) The expenses to be paid by the defendant that does not comply with the request for the summons waiver shall be those incurred by the claimant for the processing of the summons, in addition to the expenses incurred in attorney's fees for the preparation of the motion requesting payment of the expenses for the summons.

4.4.-In those cases in which it is applicable, if the defendant does not waive the summons by means of the mechanism set forth in Rule 4.3.1, the summons and the claim shall be processed jointly. The defendant shall forward the necessary copies to the person who performs the processing. Said person, when delivering the copy of the summons, shall sign the back of same, stating the date and the location of the delivery, and the name of the person to whom same was delivered. The processing shall be performed as follows:

...”

Section 2.- This Act shall take effect immediately after its approval.