

**NOTICE OF LAWSUIT AND REQUEST FOR  
WAIVER OF SERVICE FOR SUMMONS**

EPA Region 5 Records Ctr.



275662

TO: AERONCA, INC.  
c/o David E. Northrop, Esq.  
Porter, Wright, Morris & Arthur  
41 S. High St.  
Columbus, OH 43215

VIA: First Class Mail, Postage Prepaid

A lawsuit has been commenced against you. A copy of the complaint is attached to this notice. It has been filed in the United States District Court for the Southern District of Ohio, Western Division, and has been assigned docket number 1:01 CV 00439.

This is not a formal summons or notification from the court, but rather my request that you sign and return the enclosed waiver of service in order to save the cost of serving you with a judicial summons and an additional copy of the complaint. The cost of service will be avoided if I receive a signed copy of the waiver within thirty (30) days after the date designated below as the date on which this Notice and Request is sent. I enclose a stamped and addressed envelope for your use. An extra copy of the waiver is also attached for your records.

If you comply with this request and return the signed waiver, it will be filed with the court and no summons will be served on you. The action will then proceed as if you had been served on the date the waiver is filed, except that you will not be obligated to answer the complaint before 60 days from the date designated below as the date on which this notice is sent.

If you do not return the signed waiver within the time indicated, I will take appropriate steps to effect formal service in a manner authorized by the Federal Rules of Civil Procedure and will then, to the extent authorized by those Rules, ask the court to require you to pay the full costs of such service. In that connection, please read the statement concerning the duty of parties to waive the service of the summons, which is set forth at the bottom of the waiver form.

I affirm that this is being sent to you on behalf of the plaintiff, this 12<sup>th</sup> day of July 2001.

Annette M. Lang  
Trial Attorney  
Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Washington, DC 20044-7611  
(202) 514-4213

**NOTICE OF LAWSUIT AND REQUEST FOR  
WAIVER OF SERVICE FOR SUMMONS**

TO: CLARKE CONTAINER, INC. AND CLARKE'S INCINERATORS, INC.  
c/o Jonathon Conte  
Blank Rome Comisky & McCauley LLP  
PNC Center  
201 E. Fifth St., Suite 1700  
Cincinnati, OH 45202

VIA: First Class Mail, Postage Prepaid

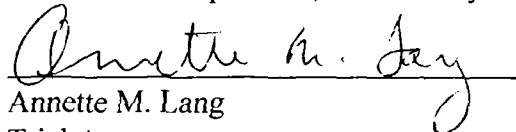
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I affirm that this is being sent to you on behalf of the plaintiff, this 12<sup>th</sup> day of July 2001.



Annette M. Lang  
Trial Attorney  
Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Washington, DC 20044-7611  
(202) 514-4213

**NOTICE OF LAWSUIT AND REQUEST FOR  
WAIVER OF SERVICE FOR SUMMONS**

TO: JOHN J. WHITTON TRUCKING, INC.  
c/o Kevin J. Hooper, Esq.  
Southampton Square  
7434 Jager Ct.  
Cincinnati, OH 45230

VIA: First Class Mail, Postage Prepaid

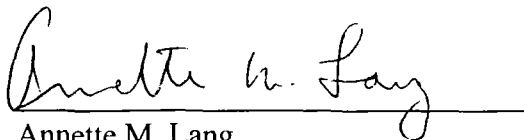
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I affirm that this is being sent to you on behalf of the plaintiff, this 12<sup>th</sup> day of July 2001.



Annette M. Lang  
Trial Attorney  
Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Washington, DC 20044-7611  
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**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
AERONCA, INC. (f/k/a Aeronca	)	
Manufacturing Corp. f/k/a/ Aeronca	)	CIVIL ACTION NO. 1:01CV00439
Aircraft),	)	JUDGE BECKWITH
CLARKE CONTAINER, INC.,	)	
CLARKE'S INCINERATORS, INC.,	)	
JOHN J. WHITTON TRUCKING, INC.,	)	
	)	
Defendants.	)	

**WAIVER OF SERVICE OF SUMMONS**

To: United States Department of Justice

I acknowledge receipt of your request that I waive service of a summons in the action entitled United States v. Aeronca, Inc. et al., in the United States District Court for the Southern District of Ohio. I have also received a copy of the complaint in the action, two copies of this waiver, and a means by which I can return this signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit, by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4 of the Federal Rules of Civil Procedure.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 of the Federal Rules of Civil Procedure is not served upon you within 60 days after July 12, 2001, the date on which the United States sent the request for waiver to John J. Whitton Trucking, Inc.

On Behalf of: John J. Whitton Trucking, Inc.

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SEE BELOW FOR IMPORTANT INFORMATION**

**Duty to Avoid Unnecessary Costs of Service of Summons**

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of a summons, fails to do so will be required to bear the costs of such service unless good cause can be shown for the defendant's failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must, within the time specified on the waiver form, serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had actually been served when the request for waiver of service was received.