

**John B. MANN, et al., Appellants**

v.

**David CASTIEL, et al., Appellees.**

**No. 10-7109.**

United States Court of Appeals,  
District of Columbia Circuit.

Argued Feb. 14, 2012.

Decided June 1, 2012.

**Background:** Owners and their two wholly-owned companies sued 31 defendants, alleging various violations of federal and state law, including racketeering, larceny, negligence, unjust enrichment, and unfair trade practices in connection with alleged satellite communications scheme. The United States District Court for the District of Columbia, Royce C. Lamberth, Chief Judge, 729 F.Supp.2d 191, dismissed without prejudice for failure to prove proper service of process on three defendants or to show cause therefor. Owners appealed.

**Holdings:** The Court of Appeals, Rogers, Circuit Judge, held that:

- (1) service was not waived by defendants' acknowledgement of service;
- (2) service was not waived by defendants' pleading;
- (3) plaintiffs lacked good cause for untimely service; and
- (4) discretionary extension of time to effect service was not warranted.

Affirmed.

### 1. Federal Civil Procedure ⚡411

Service of process is fundamental to any procedural imposition on a named defendant. Fed.Rules Civ.Proc.Rule 4(c), 28 U.S.C.A.

### 2. Federal Courts ⚡71

Under the federal rules enacted by Congress, federal courts lack the power to assert personal jurisdiction over a defendant unless the procedural requirements of effective service of process are satisfied. Fed.Rules Civ.Proc.Rule 4(c), 28 U.S.C.A.

### 3. Federal Civil Procedure ⚡411

Service of process is not only a means of notifying a defendant of the commencement of an action against him, but a ritual that marks district court's assertion of jurisdiction over the lawsuit. Fed.Rules Civ.Proc.Rule 4(c), 28 U.S.C.A.

### 4. Federal Civil Procedure ⚡2394

A judgment is void where the requirements for effective service of process have not been satisfied. Fed.Rules Civ.Proc. Rule 4(c), 28 U.S.C.A.

### 5. Federal Civil Procedure ⚡511

Plaintiff has the burden to demonstrate that the procedure employed to deliver the papers satisfies the requirements of the relevant portions of the rule governing service of process. Fed.Rules Civ.Proc.Rule 4, 28 U.S.C.A.

### 6. Federal Civil Procedure ⚡411

Although the district court cannot be assured that it has jurisdiction over a defendant until the plaintiff files proof of service, the defendant becomes a party officially, and is required to take action in that capacity, upon service. Fed.Rules Civ.Proc.Rule 4(l)(1), 28 U.S.C.A.

### 7. Federal Civil Procedure ⚡551, 734.1

A defendant must answer the complaint within 21 days after being served, even if the plaintiff fails timely to prove service by filing a server's affidavit or files defective proof of service, for the district court may permit proof of service to be amended. Fed.Rules Civ.Proc.Rules 4(l)(3), 12(a)(1)(A), 28 U.S.C.A.