

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Firsov v. Aerovias del Continente Americano S.A. Avianca

No. 25-cv-05481-VKD (N.D. Cal. Oct. 28, 2025) · No. 25-cv-05481-VKD · Decided October 28, 2025

SUMMARY

The United States District Court for the Northern District of California denied plaintiffs’ motion to recover the cost of formal service of summons. The court held that plaintiffs had not shown compliance with Federal Rule of Civil Procedure 4(d), including notice to an authorized corporate agent and subsequent proper formal service.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Virginia K. DeMarchi
JURISDICTION	United States District Court for the Northern District of California
DECIDED	October 28, 2025
DOCKET	25-cv-05481-VKD
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs proceeding pro se moved to recover the \$150 cost of formal service of summons under Federal Rule of Civil Procedure 4(d)(2). The district court resolved the motion without oral argument and denied it.
PRECEDENTIAL VALUE	unpublished, nonprecedential district court order

TOPICS

- service of process
- costs
- civil procedure

PRACTICE AREAS

- civil procedure
- service of process
- cost recovery

QUESTIONS PRESENTED

- Whether plaintiffs complied with Federal Rule of Civil Procedure 4(d)(1) so that Avianca's failure to waive service could support recovery of formal service costs under Rule 4(d)(2).

2. Whether plaintiffs demonstrated that they subsequently accomplished formal service on Avianca in compliance with the Federal Rules of Civil Procedure.

HOLDINGS

1. Plaintiffs were not entitled to recover formal service costs because they did not demonstrate that they provided notice to an Avianca officer, managing or general agent, or other agent authorized by appointment or law to receive service, and did not show that the notice informed Avianca of the consequences of waiving or not waiving service.
2. Plaintiffs did not establish that they properly accomplished formal service on Avianca under the Federal Rules of Civil Procedure and therefore could not recover expenses for formal service.

KEY QUOTATIONS

“Once a plaintiff has sent a valid request for a waiver of service of process, the burden shifts to the defendant to avoid imposing unnecessary costs on the plaintiff.” (at 1)

“Because [plaintiffs] have not established that [they] complied with Rule 4(d)(1), [they] cannot be compensated for the formal cost of service.” (at 3)

FACTUAL BACKGROUND

Plaintiffs claimed that they sent Avianca notice of the action, the summons, the complaint, and waiver materials, and later paid \$150 for formal service. Their filings reflected attempted service at Avianca's airport ticket counter at San Francisco International Airport, including service on an individual identified as a supervisor in an Avianca uniform. The record did not show that notice or service was provided to an officer, managing or general agent, or other agent authorized to receive service, and plaintiffs submitted no evidence supporting their motion.

PROCEDURAL HISTORY

Plaintiffs filed the action against Avianca and later filed a motion seeking reimbursement for formal service costs. They asserted that they had provided notice and waiver materials on July 7, 2025, that Avianca refused to return a signed waiver, and that formal service was later attempted at San Francisco International Airport. The court found that the record did not establish compliant waiver notice or proper formal service and denied the motion.

DISPOSITION

other

CASES CITED

- Rollin v. Cook, 466 F. App'x 665, 667 (9th Cir. 2012)
- Fuentes v. Nat'l Tr. Co. Deutsche Bank, No. 22-cv-04953-BLF, 2023 WL 2278701, at *3 (N.D. Cal. Feb. 27, 2023)

- Jimena v. UBS AG Bank, Inc., No. 07-cv-00367-OWW-TAG, 2007 WL 1687045, at *5 (E.D. Cal. June 8, 2007)
- Firsov v. Scandinavian Airlines of N. Am., Inc., No. 25-cv-03691-EMC, 2025 WL 2733645, at *1 (N.D. Cal. Sept. 25, 2025)
- Firsov v. United Airlines, Inc., et al., No. 25-cv-03784-BLF, Dkt. No. 48

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