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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

RAYMOND HILL,

Plaintiff,

v.

T. AW,

Defendant.

CASE NO. 1:09-cv-01202-LJO-SMS PC

ORDER PROVIDING DEFENDANT AW  
WITH THE OPPORTUNITY TO SHOW GOOD  
CAUSE FOR FAILING TO WAIVE SERVICE

(Doc. 14)

On January 15, 2010, the Court ordered the United States Marshal to serve process upon Defendant Aw.<sup>1</sup> The Marshal was directed to attempt to secure a waiver of service before attempting personal service. If the waiver of service was not returned within sixty days, the Marshal was directed to effect personal service in accordance with the provisions of Rule 4 of the Federal Rules of Civil Procedure and 28 U.S.C. § 566(c), without prepayment of costs, and to file the return of service with evidence of any attempt to secure a waiver of service and with evidence of all costs subsequently incurred in effecting personal service.

On July 12, 2010, the United States Marshal filed a return of service with a USM-285 form showing charges of \$65.45 for effecting personal service on Defendant Aw. The form shows that a waiver of service form was mailed to Defendant Aw on February 3, 2010, and that no response was received. Defendant Aw did not make an appearance in the case before personal service was executed.

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<sup>1</sup> Identified at that time as Ah.

1 Rule 4 provides that “[a]n individual, corporation, or association that is subject to service  
2 under Rule 4(e), (f), or (h) has a duty to avoid unnecessary expenses of serving the summons.” Fed.  
3 R. Civ. P. 4(d)(1). “If a defendant located within the United States fails, without good cause, to sign  
4 and return a waiver requested by a plaintiff located within the United States, the court must impose  
5 on the defendant . . . the expenses later incurred in making service . . . .” Fed. R. Civ. P. 4(d)(2)(A).

6 It appears that Defendant Aw was given the opportunity required by Rule 4(d)(1) to waive  
7 service, but failed to comply with the request. The Court shall provide Defendant with the  
8 opportunity to show good cause for failing to waive service. If Defendant either fails to respond to  
9 this order or responds but fails to show good cause, the costs incurred in effecting service shall be  
10 imposed on Defendant.

11 Accordingly, IT IS HEREBY ORDERED that:

- 12 1. Defendant Aw may, within **thirty (30) days** from the date of this order, show  
13 good cause for failing to waive service; and
- 14 2. If Defendant either fails to respond to this order or responds but fails to show  
15 good cause, the Court shall impose upon Defendant Aw the costs incurred in  
16 effecting service.

17  
18 IT IS SO ORDERED.

19 **Dated:** December 23, 2010

/s/ Sandra M. Snyder  
UNITED STATES MAGISTRATE JUDGE