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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 DISCHARGING ORDER TO SHOW
CAUSE, AND REQUIRING DEFENDANT AW
TO PAY TO THE UNITED STATES
MARSHALS SERVICE THE COSTS
INCURRED I N EFFECTING SERVICE

(Docs. 24 and 26)

On January 15, 2010, the Court ordered the United States Marshals Service to serve process upon Defendant Aw.¹ 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 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, but no response was received. Defendant Aw did not make an appearance in the case before personal service was executed.

¹ 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 Defendant Aw was given the opportunity to show good cause for failing to waive service as
7 required by Rule 4(d)(1). On January 4, 2011, Defendant Aw filed a statement of non-opposition
8 to the order and accepted responsibility for the service fees. Accordingly, IT IS HEREBY
9 ORDERED that:

- 10 1. Within **twenty (20) days** from the date of this order, Defendant Aw shall pay to the
11 **United States Marshals Service, Civil Division**, the sum of **\$65.45**; and
- 12 2. The Clerk of the Court is directed to serve a copy of this order on the United States
13 Marshal Service, Civil Division, in Sacramento, California.

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15 IT IS SO ORDERED.

16 **Dated: January 5, 2011**

17 /s/ Sandra M. Snyder
18 UNITED STATES MAGISTRATE JUDGE
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