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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

TIMOTHY S. DAUBERT,

) 1:09cv1338 LJO DLB

Plaintiff,

v.

) ORDER DIRECTING SERVICE BY THE
) UNITED STATES MARSHAL WITHOUT
) PREPAYMENT OF COSTS

CITY OF LINDSAY,

Defendant.

Plaintiff is proceeding in forma pauperis pursuant to 28 U.S.C. § 1915. The court previously ordered Plaintiff to provide information for service of process on form USM-285, sufficient copies of the first amended complaint for service, and a notice of compliance. Plaintiff has filed the required papers. Accordingly, IT IS HEREBY ORDERED that:

1. The Clerk of the Court is directed to forward the following documents to the United States Marshal:
 - (1) One completed and issued summons for each defendant to be served;
 - (2) One completed USM-285 form for each defendant to be served;
 - (3) One copy of the first amended complaint filed on July 30, 2009, for each defendant to be served, plus an extra copy for the Marshal;

1 (4) One copy of this order for each defendant to be served, plus an
2 extra copy for the Marshal;

3 (5) One copy of the Court's consent form for each defendant to be
4 served.

5 2. Within ten days from the date of this order, the United States Marshal is directed
6 to notify the following defendant of the commencement of this action and to
7 request a waiver of service in accordance with the provisions of Fed. R. Civ. P.
8 4(d) and 28 U.S.C. § 566(c):

9 City of Lindsay

10 3. The United States Marshal is directed to retain the summons and a copy of the
11 complaint in their file for future use.

12 4. The United States Marshal shall file returned waivers of service as well as any
13 requests for waivers of service that are returned as undelivered as soon as they are
14 received.

15 5. If a waiver of service is not returned by a defendant within sixty days of the date
16 of mailing the request for waiver, the United States Marshal shall:

17 a. Personally serve process and a copy of this order upon the defendant
18 pursuant to Rule 4 of the Federal Rules of Civil Procedure and 28 U.S.C.
19 § 566(c).

20 b. Within ten days after personal service is effected, the United States
21 Marshal shall file the return of service for the defendant, along with
22 evidence of any attempts to secure a waiver of service of process and of
23 the costs subsequently incurred in effecting service on said defendant.
24 Said costs shall be enumerated on the USM-285 form and shall include the
25 costs incurred by the Marshal's office for photocopying additional copies
26 of the summons and complaint and for preparing new USM-285 forms, if
27 required. Costs of service will be taxed against the personally served
28 defendant in accordance with the provisions of Fed. R. Civ. P. 4(d)(2).

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6. In the event that defendants make an appearance in this action by filing an answer, dispositive motion, or other pleading, the U.S. Marshals Service need not personally serve those defendants.

7. In the event that defendants either waive service or are personally served, defendants are required to reply to the complaint. 42 U.S.C. §1997e(g)(2).

IT IS SO ORDERED.

Dated: August 26, 2009

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE