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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RICHARD CHARLES HANNA,

Plaintiff,

v.

MARIPOSA COUNTY SHERIFF DEPT., et
al.,

Defendants.

Case No. 1:12-cv-00501-AWI-SAB

ORDER DIRECTING UNITED STATES
MARSHAL TO INITIATE RE-SERVICE ON
DEFENDANTS BOEHM, RUMFELT,
RAMIREZ, AND KING

Plaintiff Richard Charles Hanna filed this action on April 2, 2012. (ECF No. 1.) Following a long and complicated history, not relevant here, Defendants filed a motion to dismiss which was granted in part on July 22, 2014. (ECF No. 117.) In the order granting the motion to dismiss the Court found that the personal service by the United States Marshal did not comply with California Codes of Civil Procedure 415.20(b) as a copy was not mailed to the place where the summons and complaint were left. Since the service in this action did not comply with California law, the Court shall order the United States Marshal to initiate re-service of the summons and the complaint.

Accordingly, pursuant to Federal Rule of Civil Procedure 4(c), it is **HEREBY ORDERED** that:

1. For each defendant to be served, the Clerk of the Court is directed to forward the

1 following documents to the United States Marshals Service:

- 2 a. One completed and issued summons;
- 3 b. One completed USM-285 form;
- 4 c. One copy of the Complaint filed on April 2, 2012, plus an extra copy for
- 5 the Marshals Service;
- 6 d. One copy of this order, plus an extra copy for the Marshals Service; and
- 7 e. One copy of the Court's consent form.

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

11 **DEPUTY MICHAEL KING**

12 **DEPUTY CHRISTOPHER BOEHM**

13 **DEPUTY DONALD T. RUMFELT**

14 **SERGEANT CHRISTOPHER RAMIREZ**

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

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

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

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

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

1 against the personally served defendant in accordance with the provisions of Fed. R. Civ. P.
2 4(d)(2).

3 6. In the event defendant makes an appearance in this action by filing an answer,
4 dispositive motion, or other pleading, the U.S. Marshals Service need not personally serve the
5 defendant.

6 7. In the event that defendant either waives service or is personally served,
7 defendant is required to reply to the complaint. 42 U.S.C. §1997e(g)(2).

8
9 IT IS SO ORDERED.

10 Dated: July 23, 2014


UNITED STATES MAGISTRATE JUDGE

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