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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MICHAEL NIEL JACOBSEN,
Plaintiff,
v.
PEOPLE OF THE STATE OF CALIFORNIA, et al.,
Defendants.

Case No. 1:14-cv-00108-JLT (PC)
ORDER REQUIRING DEFENDANT NURSE MONICA CHOE TO FILE A RESPONSE TO THE MARSHAL'S REQUEST FOR REIMBURSEMENT OF COSTS OF SERVICE
(Doc. 46)
TWENTY-DAY DEADLINE

The Court previously found service of the Second Amended Complaint appropriate and service was ordered on Defendants Nurse Monica Choe (erroneously sued herein as “Nurse Monica”). (Doc. 19.) On April 4, 2015, the Marshal filed an unexecuted USM-285 form as to Defendant Choe. (Doc. 35.) A second attempt at service was thereafter ordered (Doc. 38) and an executed summons for service on Defendant Choe was filed on August 24, 2015 (Doc. 45). Thereafter, the United States Marshal filed a request for reimbursement of costs incurred. (Doc. 46.)

Rule 4(d)(2) of the Federal Rules of Civil Procedure provides in part:

An individual, corporation, or association that is subject to service under subdivision (e), (f), or (h) and that receives notice of an action in the manner provided in this paragraph has a duty to avoid unnecessary costs of serving the summons

If a defendant located within the United States fails to comply with a request for waiver made by a plaintiff located within the United States, the

1 court shall impose the costs subsequently incurred in effecting service on
2 the defendant unless good cause for the failure be shown.

3 Fed. R. Civ. P. 4(d)(2).

4 The Marshal requests the court to impose costs on Defendant Nurse Monica Choe for her
5 failure to avoid unnecessary costs. Given that the Marshal's Request was submitted in the form
6 of a memorandum and may not have been recognized as a request for the court to impose costs,
7 and that it was filed before Defendant Choe had appeared in this action, Defendant Choe is
8 granted an opportunity to file a response to the Marshal's Request.

9 Accordingly, IT IS HEREBY ORDERED that:

- 10 1. **Within twenty days** from the date of service of this order, Defendant Choe shall
11 file a written response to the Marshal's Request, filed on August 24, 2015 (Doc.
12 46); and
- 13 2. failure to comply with this order shall result in an order requiring Defendant Choe
14 to reimburse the Marshal for costs of personal service.

15 IT IS SO ORDERED.

16 Dated: **November 10, 2015**

17 **/s/ Jennifer L. Thurston**
18 UNITED STATES MAGISTRATE JUDGE