

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

NICKOLAS w. McMAHON,

Plaintiff,

V.

CAROLYN W. COLVIN, Acting
Commissioner of Social Security,

Defendant.

Case No. 1:15-cv-00043-SMS

ORDER DIRECTING SERVICE BY THE
UNITED STATES MARSHALS SERVICE
WITHOUT PREPAYMENT OF COSTS

The Court having previously found service of the complaint appropriate, it is hereby ORDERED, pursuant to F.R.Civ.P. 4(c), that:

1. For *each* defendant to be served, the Clerk of Court is directed to forward the following documents to the United States Marshals Service:
 - (1) One completed and issued summons;
 - (2) One completed USM-285 form;
 - (3) One copy of the complaint filed on January 5, 2015, plus an extra copy for the Marshals Service;
 - (4) One copy of this order, plus an extra copy for the Marshals Service; and
 - (5) One copy of the Court's consent form.

1 2. Within ten (10) days from the date of this order, the Marshals Service is directed to
2 notify the Acting Commissioner of Social Security, the United States Attorney for the
3 Eastern District of California, and the United States Attorney General of the commencement
4 of this action and to request a waiver of service in accordance with the provisions of
5 F.R.Civ.P. 4(i) and 28 U.S.C. § 566(c).

6 3. The Marshals Service is directed to retain its copies of the summons and complaint
7 in its file for future use.

8 4. The Marshals Service shall file returned waivers of service as well as any requests
9 for waivers of service that are returned as undeliverable as soon as they are received.

10 5. If a waiver of service is not returned by a defendant within sixty (60) days of the
11 date of mailing the request for waiver, the Marshals Service shall:

12 a. Personally serve process and a copy of this order upon the defendant
13 pursuant to F.R.Civ.P. 4 and 28 U.S.C. § 566(c).

14 b. Within ten (10) days after personal service is effected, the Marshals Service
15 shall file the return of service for the defendant, along with evidence of any attempts
16 to secure waiver of process and of the costs subsequently incurred in effecting
17 service on that defendant. The costs shall be enumerated on the USM-285 form and
18 shall include the costs incurred by the Marshals Service for photocopying additional
19 copies of the summons and complaint and for preparing new USM-285 forms, if
20 required. Costs of service will be taxed against the personally served defendant in
21 accordance with the provisions of F.R.Civ.P. 4(d)(2).

22 6. **If a defendant waives service, it is required to return the signed waivers to the**
23 **Marshals Service. The filing of an answer or a responsive motion does not relieve**

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1 **Defendant of this requirement, and the failure to return the signed waivers may**
2 **subject Defendant to an order to pay the costs of service pursuant to F.R.Civ.P.**
3 **4(d)(2).**

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

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7 IT IS SO ORDERED.

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9 Dated: March 5, 2015

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11 /s/ **Sandra M. Snyder**
12 UNITED STATES MAGISTRATE JUDGE

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