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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN KENT,

Plaintiff,

No. 2:07cv2361-MCE KJN PS

v.

ORDER TO SHOW CAUSE

UNITED STATES OF AMERICA, et al.

Defendants.

\_\_\_\_\_/

Plaintiff is proceeding without counsel and in forma pauperis in this action. (Dkt. No. 4.) The United States Marshals Service, Civil Division (“Marshal”) has requested reimbursement of its expenses incurred in connection with its personal service on defendant Brian Ramsey. (Dkt. No. 60.)

Upon granting plaintiff’s application to proceed in forma pauperis and performing its screening function, the court ordered the Marshal to serve process on certain defendants in this action, including Mr. Ramsey, pursuant to Federal Rule of Civil Procedure 4 and without the prepayment of costs. (See Dkt. No. 9 at 6-7.)

On June 15, 2010, the Marshal filed its request for reimbursement of service fees, along with form USM-285, Process Receipt and Return. (Dkt. Nos. 59, 60.) The form USM-285 indicates that the Marshal mailed a waiver of service to Mr. Ramsey on February 2, 2010, and

1 that Mr. Ramsey did not return an executed waiver. (Dkt. No. 59.) As a result, the Marshal  
2 effectuated personal service on Mr. Ramsey. (Id.) The Marshal has indicated that it incurred a  
3 total of \$75.00 in costs related to personal service on Mr. Ramsey. (Id.)

4 The Marshal is entitled to the costs sought. Federal Rule of Civil Procedure 4(d)  
5 provides, in relevant part:

6 **(d) Waiving Service.**

7 **(1) Requesting a Waiver.** An individual, corporation, or association that  
8 is subject to service under Rule 4(e), (f), or (h) has a duty to avoid  
9 unnecessary expenses of serving the summons. The plaintiff may notify  
such a defendant that an action has been commenced and request that the  
defendant waive service of a summons. . . .

10 **(2) Failure to Waive.** If a defendant located within the United States fails,  
11 without good cause, to sign and return a waiver requested by a plaintiff  
located within the United States, the court must impose on the defendant:

12 **(A)** the expenses later incurred in making service; and

13 **(B)** the reasonable expenses, including attorney's fees, of any motion  
14 required to collect those service expenses.

15 Fed. R. Civ. P. 4(d)(1), (2).

16 The undersigned finds that Mr. Ramsey was given an opportunity to waive service  
17 as provided in Rule 4(d)(2), but failed to do so. Accordingly, IT IS HEREBY ORDERED that:

18 1. Within 14 days of the date of service of this order, defendant Brian  
19 Ramsey shall either pay to the United States Marshals Service the sum of \$75.00 or,  
20 alternatively, file with the court a written statement showing good cause for failing to waive  
21 service.

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2. The Clerk of Court shall serve a copy of this order on the United States Marshals Service.

IT IS SO ORDERED.

DATED: June 16, 2010

  
KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE