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

ROSS SHADE,

Plaintiff,

vs.

No. 2:08-cv-1069 LKK JFM PS

BANK OF AMERICA, N.A., USA,  
et al.,

Defendants.

ORDER

\_\_\_\_\_/

Plaintiff is proceeding pro se and in forma pauperis. On December 3, 2008, the court ordered the United States Marshal to serve process upon the defendants in this case. The Marshal was directed to attempt to secure a waiver of service before attempting personal service on defendant. If a waiver of service was not returned within sixty days, the Marshal was directed to effect personal service on the defendant in accordance with the provisions of Rule 4 of the Federal Rules of Civil Procedure and 28 U.S.C. § 566(c), without prepayment of costs, and to file the return of service with evidence of any attempt to secure a waiver of service and with evidence of all costs subsequently incurred in effecting personal service.

On May 19, 2009, the United States Marshal filed a return of service with a USM-285 form showing total charges of \$63.00 for effecting personal service on defendant Raymond A. Patenaude and \$129.85 for effecting personal service on defendant Patenaude A. Felix, A Professional Corporation. The form shows that a waiver of service form was mailed to these defendants on December 9, 2008, and that defendants refused to sign the waiver forms.

1 Rule 4 of the Federal Rules of Civil Procedure provides, in pertinent part, as  
2 follows:

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

7 If a defendant located within the United States fails to comply with  
8 a request for waiver made by a plaintiff located within the United  
9 States, the court shall impose the costs subsequently incurred in  
10 effecting service on the defendant unless good cause for the failure  
11 be shown.

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

13 The court finds that defendants Raymond A. Patenaude and Patenaude A. Felix,  
14 A Professional Corporation, were was given the opportunity required by Rule 4(d)(2) to waive  
15 service and has failed to comply with the request.

16 Accordingly, IT IS HEREBY ORDERED that:

17 1. Within fourteen days from the date of this order defendant Raymond A.  
18 Patenaude and Patenaude A. Felix, A Professional Corporation, shall pay to the United States  
19 Marshal the sum of \$63.00 and \$129.85, respectively, unless within that time each defendant  
20 files a written statement showing good cause for the failure to waive service. The court does not  
21 intend to extend this fourteen day period.

22 2. The Clerk of the Court is directed to serve a copy of this order on the U.S.  
23 Marshal.

24 DATED: July 30, 2009.

25   
26 UNITED STATES MAGISTRATE JUDGE