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

RONNIE O. BROWN,

Plaintiff,

vs.

CALIFORNIA DEPT. OF CORRECTIONS, *et al.*,

Defendants.

Case No. 2:08-cv-01467-PMP-GWF
ORDER

This matter is before the Court on the United States Marshal’s Memorandum Requesting Court Order to Reimburse Service Fee Costs (Dkt. #35), filed December 8, 2009.

On September 17, 2009, the Court dismissed Defendant Hubbard from this action and dismissed Plaintiff’s Second Amended Complaint with prejudice (Dkt. #31). Almost two months later, on November 11, 2009, the USM completed personal service on Defendant Hubbard. (Dkt. #34).

Fed.R.Civ.P. 4(d) provides that when a “defendant located within the United States fails, without good cause, to sign and return” a waiver of service, the Court must impose “the expenses later incurred in making service”. The United States Marshal’s Service (“USM”) requests that the Court order Defendant Susan Hubbard, Secretary for the California Department of Corrections, to reimburse the USM under Fed.R.Civ.P. 4(d) for the expenses incurred in serving Defendant. (Dkt. #35).

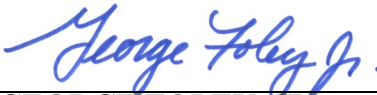
The Court finds Defendant Hubbard had good cause to fail to return waiver of service to Plaintiff as the Court had dismissed Defendant from this action with prejudice on September 17, 2009. Accordingly,

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IT IS HEREBY ORDERED that the United States Marshal's Memorandum Requesting Court Order to Reimburse Service Fee Costs (Dkt. #35) is **denied**.

DATED this 28th day of January, 2010.



GEORGE FOLEY, JR.
UNITED STATES MAGISTRATE JUDGE