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

JAMES OLIVER,

Plaintiff,

No. CIV S-08-2524 LKK GGH P

vs.

SCOTT CHESSER.,

Defendant.

ORDER

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Plaintiff, on June 22, 2010, filed a motion for this court to direct the U.S. Marshal to serve the defendant. The court had previously directed the U.S. Marshal to serve defendant Chesser by Order, filed on March 5, 2010, directing the Marshal to notify the defendant of the commencement of this action and to request a waiver of service of summons in accordance with Fed. R Civ. P. 4(d) and 28 U.S.C. § 566(c) within ten days. An executed summons was filed on June 18, 2010, along with a request by the U.S. Marshal for reimbursement of costs for personal service of the defendant. Defendant Chesser filed an answer on July 9, 2010, but has filed no objection to the request by the U.S. Marshal.

The summons indicates that the waiver was mailed on March 10, 2010 and was not returned as of June 16, 2010. Personal service was assigned “per order,” and was effected on June 17, 2010, upon Tonia Lewis, Litigation Coordinator, presumably at California State

1 Prison-Solano. The total charges assessed for personal service by the Marshal's Office is  
2 \$110.00 for the service fee and \$35.00 for mileage, for a total cost of \$145.00.

3 Fed. R. Civ. P. 4(d)(2) provides that if a defendant located within the United  
4 States fails, without good cause, to sign and return a waiver, the court may impose on the  
5 defendant the expenses of personal service. Defendant Chesser has made no effort to show any  
6 cause for his failure to return the waiver.

7 Accordingly, IT IS ORDERED that:

8 1. Within fourteen days of the date of this order, defendant Chesser shall  
9 reimburse the U.S. Marshal for the cost of personal service in the amount of \$145.00;

10 2. Plaintiff's motion to direct the U.S. Marshal to serve defendant Chesser, filed  
11 on June 22, 2010 (docket # 32), is denied as moot; and

12 3. The Clerk of the Court shall serve a copy of this order on Valerie Duran, U.S.  
13 Marshals Service.

14 DATED: July 20, 2010

/s/ Gregory G. Hollows

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GREGORY G. HOLLOWS  
UNITED STATES MAGISTRATE JUDGE

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18 GGH:009  
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