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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIAM J. WHITSITT,
Plaintiff,
v.
PATRICIO ENTERPRISES, et al.,
Defendants.

No. 2:13-cv-0118 KJM GGH PS
ORDER

Plaintiff is proceeding pro se and in forma pauperis in this action. This proceeding was referred to this court by E.D. Cal. L.R. 302(c)(21), pursuant to 28 U.S.C. § 636(b)(1).

On September 30, 2013, the court ordered the United States Marshal to serve process upon the defendant in this case within ninety days. The waiver of service form indicates that defendant was notified that failure to waive service of summons would result in a requirement that defendant bear costs of such service unless it shows good cause for failure to return the waiver. See Fed. R. Civ. P. 4(d)(1); 28 U.S.C. §566(c).

On March 11, 2014, the United States Marshal filed a return of service with a USM-285 form showing total charges of \$164.32 for effecting personal service on defendant New Breed Logistics. The form shows that a waiver of service form was mailed to the defendant on December 10, 2013, and that no response was received.

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Rule 4(d) of the Federal Rules of Civil Procedure provides, in pertinent part, as follows:

An individual, corporation, or association that is subject to service under Rule 4(e), (f), or (h) has a duty to avoid unnecessary expenses of serving the summons. . . .

If a defendant located within the United States fails, 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:

- (A) the expenses later incurred in making service; and
- (B) the reasonable expenses, including attorney's fees, of any motion required to collect those service expenses.

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

The court finds that defendant New Breed Logistics was given the opportunity required by Rule 4(d) to waive service and has failed to comply with the request.

Accordingly, IT IS HEREBY ORDERED that:

1. Within fourteen days from the date of this order defendant New Breed Logistics shall pay to the United States Marshal the sum of \$164.32, unless within that time defendant files a written statement showing good cause for its failure to waive service. The court does not intend to extend this fourteen day period.
2. The Clerk of the Court is directed to serve a copy of this order on the U.S. Marshal.
3. The Clerk shall serve this order on New Breed Logistics at the address indicated on the filed process form.

Dated: March 17, 2014

/s/ Gregory G. Hollows

UNITED STATES MAGISTRATE JUDGE

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