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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

PETER T. HARRELL,
Plaintiff,
v.
MARCI BUTTRAM, ET AL.,
Defendants.

No. 2:14-CV-00582-KJM-AC

ORDER

Plaintiff, Peter T. Harrell, is proceeding in this action pro se and in forma pauperis pursuant to 28 U.S.C. §1915. The case was referred to the undersigned in accordance with Local Rule 302(c)(21) and 28 U.S.C. § 636(b)(1).

On April 16, 2014, the undersigned granted plaintiff’s motion to proceed in forma pauperis and directed the United States Marshals Service, Civil Division (“Marshal”) to serve process upon all defendants pursuant to FRCP 4. ECF No. 3. On September 11, 2014, the Marshal requested reimbursement of its expenses incurred in connection with its personal service on Defendants Marci Buttram, John Crossland, and Clyde Billot (“Defendants”). ECF No. 19.

Rule 4 of the Federal Rules of Civil Procedure provides, in relevant part:

(1) Requesting a Waiver. 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. The plaintiff may notify such a defendant that an action has been commenced and request that the defendant waive service of a summons. . . .

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

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

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

8 Fed. R. Civ. P. 4(d)(1)–(2).

9 According to the USM-285 form filed by the Marshal, on May 2, 2014, requests for
10 written waiver of service were mailed to Defendants. ECF No. 10. On August 8, 2014, having
11 not received Defendants' written waiver of service, the Marshal personally served them and
12 incurred costs in doing so.¹ Id.

13 Accordingly, IT IS HEREBY ORDERED that:

14 1. Within 30 days of the date of service of this order, Defendants shall either: (a)
15 show good cause why they failed to waive service, or (b) pay to the United States Marshals
16 Service the costs of personal service reflected on the USM-285 form associated with the service
17 of Defendants. If Defendants choose to pay the costs rather than show good cause, they shall
18 promptly notify the Court of such payment.

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

21 DATED: September 12, 2014

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23 ALLISON CLAIRE
24 UNITED STATES MAGISTRATE JUDGE

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28 ¹ According to the USM-285 filed by the Marshal, the total cost to serve Defendants was \$361.18.