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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROOSEVELT J. ROBINSON,
Plaintiff,
v.
PRISIL, et al.,
Defendants.

No. 2:14-cv-790 MCE AC P

ORDER

Defendants Yuo, Jin, and and Meyer-Mitchell¹ were served by the United States Marshal on May 11, 2017. ECF Nos. 29 & 32. The Marshal subsequently filed a request for reimbursement for costs of personal service (ECF No. 31) after indicating that these defendants failed to respond to a waiver of service form mailed on February 9, 2017 (ECF No. 32). The court ordered defendants to submit the reimbursement unless, within fourteen days, they filed a written statement which demonstrated good cause for their failure to waive service. ECF No. 33. Defendants have filed a reply to the court’s order. For the reasons stated below, the court will vacate its previous order requiring defendants to submit reimbursement.

Federal Rule of Civil Procedure 4(d)(1) imposes a duty on defendants “to avoid

¹ Plaintiff named these defendants as “Yu”, “Angie”, and “Janet” in his amended complaint and the court directed service for them based on this information. See ECF Nos. 13 & 20. The Clerk of Court will be directed to update the docket to reflect their correct names.

1 unnecessary expenses of serving the summons.” Rule 4(d)(2) requires that the court tax costs of
2 service of process on any defendant who fails to show good cause for failing to sign and return a
3 timely waiver of service. Fed. R. Civ. P. 4(d)(2). Here, defendants appear to argue that they
4 never received the waiver forms. They note that the requests for waiver were served at Solano
5 County Jail – the location specified by plaintiff in his complaint – where each defendant no
6 longer worked at the time of the service attempt. Defendants’ counsel states that Yuo last worked
7 at the jail in June of 2014, Jin last worked there in October of 2016, and Meyer-Mitchell last
8 worked there in November of 2014. ECF No. 34 at 2. Good cause for excusing failure to waive
9 service exists where the defendants never received the request for waiver. See Double S Truck
10 Line, Inc. v. Frozen Food Express, 171 F.R.D. 251, 253 (D. Minn. 1997) (citing 1993 Advisory
11 Committee Notes to Rule 4).

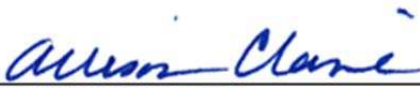
12 IT IS THEREFORE ORDERED that:

13 1. The Clerk of Court shall alter the docket to reflect that:

- 14 a. Defendant “Yu” is appropriately “Yuo”;
- 15 b. Defendant “Angie” is appropriately “Angie Jin”; and
- 16 c. Defendant “Janet” is appropriately “Janet Meyer-Mitchell.”

17 2. The Court’s order directing defendants Yuo, Jin, and Meyer-Mitchell to submit the
18 costs of personal service to the US Marshal (ECF No. 33) is VACATED.

19 DATED: July 10, 2017

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21 ALLISON CLAIRE
22 UNITED STATES MAGISTRATE JUDGE
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