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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

IMHOTEP SALAT,
Plaintiff,
v.
MICHAEL PIROTTO, ET AL.,
Defendants.

No. 2:14-cv-1468-MCE-AC

ORDER

On October 28, 2014, the court issued an order to show cause requiring defendant Michael Pirotto (“Defendant Pirotto”) to reimburse the United States Marshals Service (“USM”) for personal service of process under Rule 4(d)(2) of the Federal Rules of Civil Procedure because he failed to waive service, unless he filed a written statement showing good cause for his failure to waive. ECF No. 14. On November 4, 2014, Defendant Pirotto filed his response to the court’s order, arguing that he failed to waive service for good cause because he never received a request to waive service from the USM. ECF No. 16.

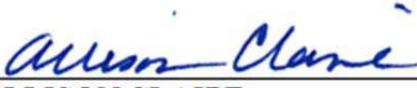
The court finds the fact that Defendant Pirotto never received his request from the USM constitutes good cause for failure to waive service. Federal Rule of Civil Procedure 4(d)(1) imposes a duty on defendants “to avoid unnecessary expenses of serving the summons.” Rule 4(d)(2) requires that the court tax costs of service of process on any defendant who fails to show good cause for failing to sign and return a timely waiver of service. Fed. R. Civ. P. 4(d)(2). The

1 advisory committee notes provide two examples of when good cause can be established: when a
2 defendant does not receive the request or when a defendant is insufficiently literate in English to
3 understand it. Fed. R. Civ. P. 4(d) Advisory Committee's Note (1993 Amendments). According
4 to Defendant Pirotto, he never received the USM's request to waive service. ECF No. 16.
5 Accordingly, the court finds that Defendant Pirotto has shown good cause for failure to waive
6 service and declines to order him to reimburse the USM.

7 In light of the foregoing, IT IS HEREBY ORDERED that:

8 1. The October 28, 2014, order to show cause, ECF No. 14, is discharged.

9 DATED: November 10, 2014

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11 ALLISON CLAIRE
12 UNITED STATES MAGISTRATE JUDGE
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