

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02939-MSK-MEH

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES H. PHILLIPS, JR.,

Defendant,

v.

AFLAC - FIELD COMPENSATION,

Garnishee.

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**MINUTE ORDER**

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**Entered by Michael E. Hegarty, United States Magistrate Judge, on May 21, 2012.**

Pending before the Court is a Motion for Entry of Garnishee Order filed by the United States of America [[filed April 27, 2012; docket #14](#)]. On March 8, 2012, the Clerk of the Court issued a Writ of Continuing Garnishment to AFLAC-Field Compensation, the Garnishee in this case. (Docket #12.) Pursuant to 28 U.S.C. § 3205(c)(2)(4), the Garnishee was required to “file [its] original answer with the court... and [to] serve a copy on the debtor and counsel for the United States.” Although the Garnishee filed its Answer with the Court on April 5, 2012, and sent a copy of its Answer to the United States Attorney’s Office, the Garnishee provides no indication that the Answer was served upon Defendant. (Docket #13.)

On May 9, 2012, the Court entered a Minute Order directing the Garnishee to provide proof of service upon the debtor (Defendant) in accordance with 28 U.S.C. § 3205(c)(4) on or before May 18, 2012. (Docket #16.) However, as of this date, the Garnishee has not done so.

In the absence of a duly served Answer under 28 U.S.C. § 3205(c)(2)(4), the Court is not satisfied that an order should enter pursuant to 28 U.S.C. §3205(c)(7). Therefore, the United States’ Motion is **denied without prejudice**. The United States is granted leave to re-file the Motion once the Garnishee has provided proof of service upon Defendant.