

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-00200-PAB-MEH

JOE BROWN,

Plaintiff,

v.

MR. HENDRICKS, and
MR. SHORTNER,

Defendants.

MINUTE ORDER

Entered by Michael E. Hegarty, United States Magistrate Judge, on January 31, 2013.

Plaintiff's Motion for Default Judgment Order, construed by the Court as a motion for entry of default pursuant to Fed. R. Civ. P. 55(a) [[filed January 29, 2013; docket #93](#)] is **denied without prejudice**. During a status conference on October 30, 2012, this Court ordered the Plaintiff to "file a Second Amended Complaint" and to "file a request for service of the Second Amendment Complaint on Defendants by the US Marshal Service." *See* docket #88. On November 8, 2012, Plaintiff filed a Second Amended Complaint in compliance with the Court's order, then attached to the Complaint two "Summonses," one to each Defendant. *See* docket #89 at 11 and 12. Apparently, the Plaintiff believed that by filing the summonses, he was requesting service of process by the U.S. Marshal. Unfortunately, that is not the case, and there is no indication on the record that the Second Amended Complaint has been served. The Court cannot enter default without proof of service of process.

Therefore, pursuant to 28 U.S.C. § 1915, the Court directs the Clerk of the Court to promptly arrange with the United States Marshal the service of the Second Amended Complaint (docket #89) upon the named individual Defendants in this case. If appropriate, the Marshal shall first attempt to obtain a waiver of service of these documents pursuant to Fed. R. Civ. P. 4(d). All costs of service shall be advanced by the United States.