

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

MARK ROMERO,)	
)	
Plaintiff,)	
)	
vs.)	2:13-cv-00426
)	
THE REFINERY BAR AND GRILL, INC.,)	
)	
Defendant.)	

OPINION AND ORDER

Plaintiff Mark Romero filed his Complaint on November 21, 2013, and served it and a summons on Defendant Refinery Bar and Grill on January 23, 2014 after Refinery failed to waive service under Fed. R. Civ. P. 4(d)(1). Refinery’s responsive pleading was due February 13, 2014. When Refinery blew that deadline, Romero filed a “Motion for Default” on February 18, 2014, seeking a default judgment. (Docket Entry 6 at ¶ 8.) That apparently lit a fire under Refinery, and on February 19, 2014 its counsel filed an appearance and a request for an extension of time to file an answer. (DE 9, 10.) I denied default and granted the extension on February 20, 2014. (DE 11.)

I also ordered Refinery to respond to Romero’s motion for fees and expenses incurred due to Refinery’s refusal to waive the service of process, writing:

Due to Refinery’s failure to waive service of the complaint and summons, Romero also moved for fees and expenses to cover service pursuant to Fed. R. Civ. P. 4(d)(2). (DE 7.) I **must** impose those expenses on Refinery if the failure to waive service was done without good cause. Refinery has not yet addressed whether it had good cause

for its failure to return the waiver of service, so it is **ORDERED** to do so in a response filed concurrently with its answer. Romero may then file a reply if he chooses.

(DE 11) (emphasis in original). Refinery answered the complaint, but never responded to Romero's motion for fees and expenses. Refinery was warned that the motion would be granted if refusal to waive service was without good cause. No explanation has been offered, so the motion for expenses and attorney fees is **GRANTED**. (DE 7.)

Plaintiff Romero is therefore awarded, pursuant to Fed. R. Civ. P. 4(d)(2), the expenses Romero incurred in making service and the reasonable expenses, including attorney's fees, of Romero's motion to collect service expenses. Romero's motion seeks \$332.00 in service expenses and \$375.00 for attorney fees for filing the motion. Those amounts appear reasonable, and are hereby **AWARDED**.

SO ORDERED.

ENTERED: July 11, 2014

/s/ Philip P. Simon
PHILIP P. SIMON, CHIEF JUDGE
UNITED STATES DISTRICT COURT