

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Civil Action No. 14-13297-RGS

ANDREW NAGLY,

v.

JANE SARJEANT

ORDER ON MOTION FOR U.S. MARSHALS SERVICE

September 11, 2014

STEARNS, D.J.

This matter is before the court on plaintiff Andrew Nagly's Motion (Dkt #4) for U.S. Marshals to Serve Summon(s). In his self-prepared motion, Nagly simply states that the defendant "already refused to accept a mailed copy, and a summon(s) delivered by a private party." The court's records indicate that Nagly paid the full filing fee for this action and is not proceeding *in forma pauperis*. A person who is unable to afford paying the filing fee is presumptively unable to pay the costs of service of process. 28 U.S.C. § 1915(d) (where in forma pauperis status is granted, "[t]he officers of the court shall issue and serve all process, and perform all duties in such cases."). Here, Nagly has not alleged that it would be a financial hardship for him to pay for service of process by the United States Marshals Service and he has not shown any authority for this court to issue an order directing that public funds be used for payment to a private litigant for the purpose of security service by the United States Marshals Service.

Moreover, in order to prevent the dismissal of this action for want of prosecution, Nagly must file a proper return of service showing service on the defendant. See D. Mass. Local Rule 4.1(a) (any summons not returned with proof that it was served within one hundred twenty (120) days of the filing of the complaint is deemed to be unserved for the purpose of Fed. R. Civ. P. 4(m)). Should Nagly seek a default judgment pursuant to Rule 55 of the Federal Rules of Civil Procedure, he must file a return of service as well as an application for entry of default on the ground that defendant has failed to answer or otherwise respond to the complaint.

ACCORDINGLY, Plaintiff's Motion for U.S. Marshals to Serve Summon(s) (Doc. 4) is DENIED.

SO ORDERED.

/s/Richard G. Stearns

UNITED STATES DISTRICT JUDGE