

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

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5 VICTOR TAGLE,

6 Plaintiff,

7 vs.

8 DEPARTMENT OF HOMELAND SECURITY,

9 Defendant.

2:15-cv-02506-APG-VCF

ORDER

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12 Before the Court are Plaintiff's Motion to Continue Case and/or Issue Needed Forms (ECF No.
13 62) and Request for Waiver of Summons (ECF No. 64).

14 In April 2018, Judge Gordon ordered that the Clerk of the Court issues Summons to the named
15 defendant and deliver copies of the Second Amended Complaint to the U.S. Marshal for service. Plaintiff
16 had 20 days in which to furnish to the U.S. Marshal the required USM285 forms. (ECF No. 47). On July
17 10, 2018, the Summons was returned as unexecuted because no USM285 form was received. (ECF NO.
18 61).

19 Plaintiff now seeks the court to reissue Summons. He states that he was unable to get a copy of
20 the USM285 form. (ECF No. 62).

21 In Plaintiff's Request for Waiver of Summons, he is asking for a waiver of summons due to lack
22 of the required USM285 form for U.S. Marshal service. The waiver of summons is denied; however, the
23 court will mail Plaintiff the USM285 form.
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1 Accordingly,

2 IT IS HEREBY ORDERED that Plaintiff's Motion to Continue Case and/or Issue Needed Forms
3 (ECF No. 62) is GRANTED.

4 IT IS FURTHER ORDERED that Request for Waiver of Summons (ECF No. 64) is DENIED.

5 The Clerk of Court is directed to reissue summons to the named defendant(s) herein, and deliver
6 same with copies of the Second Amended Complaint to the U.S. Marshal for service, and send blank
7 copies of the USM-285 forms to the Plaintiff. Plaintiff has twenty (20) days in which to furnish to the
8 U.S. Marshal the required Forms USM-285. Within twenty (20) days after receiving from the U.S.
9 Marshal a copy of the Form USM-285 showing whether service has been accomplished, plaintiff must file
10 a notice with the Court identifying which defendants were served and which were not served, if any. If
11 plaintiff wishes to have service again attempted on an unserved defendant(s), then a motion must be filed
12 with the Court identifying the unserved defendant(s) and specifying a more detailed name and/or address
13 for said defendant(s), or whether some other manner of service should be attempted. Service must be
14 accomplished by **November 5, 2018**.

15 **NOTICE**

16 Pursuant to Local Rules IB 3-1 and IB 3-2, a party may object to orders and reports and
17 recommendations issued by the magistrate judge. Objections must be in writing and filed with the Clerk
18 of the Court within fourteen days. LR IB 3-1, 3-2. The Supreme Court has held that the courts of appeal
19 may determine that an appeal has been waived due to the failure to file objections within the specified
20 time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file objections
21 within the specified time and (2) failure to properly address and brief the objectionable issues waives the
22 right to appeal the District Court's order and/or appeal factual issues from the order of the District Court.
23 *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452,
24 454 (9th Cir. 1983).

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1 Pursuant to Local Special Rule 2-2, the Plaintiff must immediately file written notification with
2 the court of any change of address. The notification must include proof of service upon each opposing
3 party of the party's attorney. Failure to comply with this Rule may result in dismissal of the action. See
4 LSR 2-2.

5 DATED this 7th day of August, 2018.



6 CAM FERENBACH
7 UNITED STATES MAGISTRATE JUDGE
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