

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

GEOFFREY FRAIZE,

Plaintiff,

v.

**Government National Mortgage
Association, et al.,**

Defendants.

Civ. No. 14-cv-7152 (KM)

MEMORANDUM and ORDER

This matter comes before the Court on “Plaintiff’s Request to Waive Service Pursuant to F.R.C.P. 4(d)(1).” (ECF no. 20) Defendant Government National Mortgage Association (“GNMA”) has submitted a letter response (ECF no. 21). Plaintiff filed this federal action when a state judgment of foreclosure was pending. I have previously denied motions for default, a declaratory judgment, and other relief. In each case, I have directed plaintiff to properly accomplish service. (ECF nos. 9, 12, 17, 19) Plaintiff points out, as he has done before, that he requested in writing that defendants waive service of the federal summons and complaint pursuant to Fed. R. Civ. P. 4(d). Plaintiff attached a condition, however; if defendants waived service, he said, they must *also* agree to stay enforcement of the state foreclosure judgment pending the outcome of this federal action. (ECF no. 20, Ex. A) Defendants did not agree.

I will deny plaintiff’s Request for three reasons. First, the agreed-service shortcut of Rule 4(d) does not apply to the United States or its agencies, such as GNMA. They must be served pursuant to Rule 4(i). *See John v. Sec’y of the Army*, 484 F. App’x 661, 665-66, 2012 WL 1995034 (3d Cir. 2012) (citing *Tuke v. United States*, 76 F.3d 155, 156 (7th Cir. 1996); *Lepone–Dempsey v. Carroll Cnty. Comm’rs*, 476 F.3d 1277, 1281 (11th Cir. 2007)). Second, Rule 4(d) makes no provision for a plaintiff to attach additional conditions to his written request for waiver of service of a summons. Defendants’ refusal was therefore not unreasonable. Third, even if the refusal had been unreasonable, that would not excuse the requirement of service; it would merely shift the cost. Plaintiff must still accomplish service. Fed. R. Civ. P. 4(d)(2).

I have already entered four orders in this case, in which issue has not been joined. (ECF nos. 9, 12, 17, 19) In each instance, I clearly stated that no response from defendants will be required unless and until proper service is made. Instead, plaintiff has responded with motions for various forms of relief,

including duplicative motions for entry of default. It is not permissible for Plaintiff to respond to this court's orders by bringing the same application again and again in slightly different form.

NOTICE

No further proceedings will be had in this case unless and until Plaintiff properly accomplishes service in accordance with the Federal Rules. Any further applications in the absence of proper service may expose the Plaintiff to sanctions.

IT IS therefore this 14th day of May, 2015,

ORDERED that Plaintiff's Request to Waive Service Pursuant to F.R.C.P. 4(d)(1) is **DENIED**.


KEVIN MCNULTY, U.S.D.J.