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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JAMES EDWARD CURTIS,

Plaintiff,

v.

TERRY J. BENDA, *et al.*,

Defendants.

Case No. C08-5109 FDB/KLS

ORDER DENYING MOTION FOR
ORDER REVOKING COURT ORDER
AND ISSUANCE OF ORDER ENTER
DEFAULT JUDGMENT AS MOOT

Before the Court is Plaintiff's Motion for Order Revoking Court Order and Issuance of Order Entering Default Judgment. Dkt. # 36. Plaintiff requests that the Court revoke its service order directing service of the amended complaint on Defendant Terry J. Benda and enter a default judgment against Mr. Benda. *Id.* Plaintiff alleges that Mr. Benda engaged in fraud and misrepresentation in avoiding service by the U.S. Marshal. *Id.* Defendants oppose the motion. Dkt. # 39.

On April 6, 2009, a notice of appearance and waiver of service was filed on behalf of Terry J. Benda by the Attorney General. Dkt. # 38. As Mr. Benda has waived service in this matter, the issues raised in Plaintiff's motion are now moot. Pursuant to Fed.R.Civ.P. 12(a), Defendant Benda has until May 18, 2009, to submit his answer.

ORDER - 1

1 Accordingly, it is **ORDERED** that Plaintiff's motion (Dkt. # 36) shall be **DENIED as moot**.
2 The Clerk of Court is directed to send a copy of this Order to Plaintiff and to counsel for
3 Defendants.

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DATED this 24th day of April, 2009.


Karen L. Strombom
United States Magistrate Judge