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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TIMOTHY DIETZ,

Plaintiff,

v.

QUALITY LOAN SERVICE CORP. OF
WASHINGTON, *et al.*,

Defendants.

CASE NO. C13-5948 RJB

ORDER DENYING PLAINTIFF'S
MOTION TO ACCEPT SERVICE OF
SUMMONS AS WAIVED

This matter comes before the Court on Plaintiff's motion to accept service of summons as being waived. Dkt. 44. Plaintiff seeks an order finding that service of the summons was effectuated on Defendants Quality Loan Service and McCarthy & Holthus, LLP when the waivers of service were sent to defendants, or alternatively that service was waived as of the date the requests for waiver were received. *Id.* The Court has considered the pleadings in support of and in opposition to the motion and the record herein.

1 Plaintiff contends that he complied with Rule 4(d) and service should be declared
2 effective. Such relief is not permitted. A defendant is not required to accept a request for waiver
3 of service. If the defendant does not waive service, service has not been effected. *Larsen v.*
4 *Mayo Medical Center*, 218 F.3d 863, 867-68 (8th Cir. 2000). Thus, if the defendant does not
5 return the waiver form, the plaintiff must still serve the summons and complaint in a manner
6 prescribed by Rule 4. See Fed. R. Civ. P. 4(d)(2). While a defendant generally has a duty to
7 avoid the unnecessary expenses of serving the summons,¹ a defendant has no obligation to waive
8 its due process right to proper service. *Adams v. AlliedSignal Gen. Aviation Avionics*, 74 F.3d
9 882, 885-86 (8th Cir. 1996); *3BA Properties LLC v. Claunch*, 2014 WL 2619070 n. 11 (W.D.
10 Wash. 2014).

11 Plaintiff's motion is without merit and will be denied.

12 CONCLUSION

13 Therefore, it is hereby **ORDERED**:

14 Plaintiff's motion to accept service of summons as being waived (Dkt. 44) is **DENIED**.

15 The Clerk is directed to send uncertified copies of this Order to all counsel of record and
16 to any party appearing *pro se* at said party's last known address.

17 Dated this 12th day of September, 2014.

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19 ROBERT J. BRYAN
20 United States District Judge

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22
23 ¹ The consequences of failing to return a waiver of service is that absent a showing of good
24 cause, a defendant who fails to execute a valid waiver must pay the costs of formal service and
any costs, including reasonable attorney's fees, of any motion required to collect service
expenses. Fed. R. Civ. P. 4(d)(2).