

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

LORENA MEYER,

Plaintiff,

vs.

No. CIV. S-10-2786 GGH PS

SANTANDER CONSUMER USA,

Defendant.

ORDER

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Plaintiff is proceeding pro se and in forma pauperis in this action. This proceeding was referred to this court by E.D. Cal. L.R. 302(c)(21), pursuant to 28 U.S.C. § 636(b)(1).

On July 1, 2011, the court ordered the United States Marshal to serve process upon the defendant in this case within ninety (90) days. (Dkt. No. 11.) The United States Marshal's waiver of service form notifies a defendant that failure to waive service of summons would result in a requirement that defendant bear costs of such service unless it shows good cause for failure to return the waiver. See Fed. R. Civ. P. 4(d)(1); 28 U.S.C. § 566(c).

On November 1, 2011, the United States Marshal filed a return of service with a USM-285 form showing total charges of \$71.16 for effecting personal service on defendant Santander Consumer USA. (Dkt. No. 19.) The form shows that a waiver of service form was

1 mailed to the defendant on July 13, 2011, and that no response was received. (Id.) Along with  
2 the return of service, the United States Marshal filed a request for an order to reimburse the  
3 Marshal's service fees. (Dkt. No. 20.)

4 Rule 4(d) of the Federal Rules of Civil Procedure provides, in pertinent part, that:

5 An individual, corporation, or association that is subject to service  
6 under Rule 4(e), (f), or (h) has a duty to avoid unnecessary  
expenses of serving the summons. . . .

7 If a defendant located within the United States fails, without good  
8 cause, to sign and return a waiver requested by a plaintiff located  
within the United States, the court must impose on the defendant:  
9 (A) the expenses later incurred in making service; and  
10 (B) the reasonable expenses, including attorney's fees, of any  
motion required to collect those service expenses.

11 Fed. R. Civ. P. 4(d)(1), (2)(A), (B).

12 The court finds that defendant Santander Consumer USA was given the  
13 opportunity required by Rule 4(d) to waive service and has failed to comply with the request.

14 Accordingly, IT IS HEREBY ORDERED that:

15 1. Within fourteen (14) days from the date of this order defendant Santander  
16 Consumer USA shall pay to the United States Marshal the sum of \$71.16, unless within that time  
17 defendant files a written statement showing good cause for its failure to waive service. The court  
18 does not intend to extend this fourteen day period.

19 2. The Clerk of the Court is directed to serve a copy of this order on the U.S.  
20 Marshal.

21 DATED: January 20, 2012

22 /s/ Gregory G. Hollows  
23 UNITED STATES MAGISTRATE JUDGE

24 GGH/wvr  
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