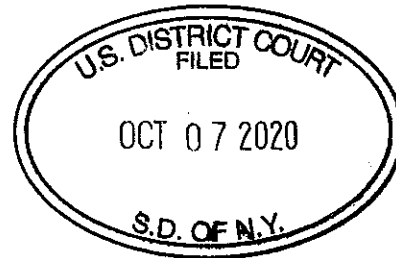


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: CORONAVIRUS/COVID-19
PANDEMIC

This Matter Relates to: Personal Service of
Process by the United States Marshals
Service in *In Forma Pauperis* cases



STANDING ORDER
M10-468

20-MC-153

In light of efforts to slow the transmission of COVID-19, a Standing Order dated March 13, 2020 (ECF No. 1) suspended until further notice any requirement that the United States Marshals Service effect personal service of process under Federal Rule of Civil Procedure 4(c)(3) or 28 U.S.C. § 1915(d). Given the gradual resumption of in-person court operations, the stay of personal service by the U.S. Marshals Service is hereby lifted.

The Court emphasizes that, under the Federal Rules of Civil Procedure and New York law, defendants have a duty to avoid unnecessary expenses relating to personal service of summonses and complaints. *See* Fed. R. Civ. P. 4(e)(1) (individual may be served by following state law for serving a summons); Fed. R. Civ. P. 4(d) (duty to avoid unnecessary expenses of personal service); N.Y.C.P.L.R. § 312-a (authorizing service by mail). Accordingly, the U.S. Marshals Service will, whenever possible, first attempt service by mail. If a defendant fails to complete and return an “Acknowledgment of Receipt of Summons and Complaint” within thirty days of receiving it from the Marshals, the defendant “will be required to pay expenses incurred in serving the summons and complaint ... in any other manner permitted by law, and the cost of such service ... will be entered as a judgment against [the defendant].” N.Y.C.P.L.R. § 312-a; *see also* Fed. R. Civ. P. 4(d)(2) (court must impose expenses incurred in making service if defendant fails, without good cause, to waive service).

The March 13, 2020 Standing Order tolled the time for service of process under Federal Rule of Civil Procedure 4(m) in any case in which the U.S. Marshals Service had been ordered to serve process until the stay of personal service was lifted. This order lifts that stay and therefore ends the tolling period.

CONCLUSION

The March 13, 2020 Standing Order (ECF No. 1) suspended until further notice any requirement that the U.S. Marshals Service effect personal service of process and tolled the time for service of process under Fed. R. Civ. P. 4(m). The stay of personal service is hereby lifted, and the tolling period is ended.

SO ORDERED.

Dated: October 7, 2020
New York, New York



COLLEEN McMAHON
Chief United States District Judge