

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

STEVEN E. GREER,

Plaintiff,

v.

**Civil Action 2:24-cv-1237
Judge Sarah D. Morrison
Magistrate Judge Chelsey M. Vascura**

SUSAN HARRELD, et al.,

Defendants.

ORDER

Plaintiff, Steven E. Greer, proceeding without the assistance of counsel, sues several of his family members and their attorneys for various state-law torts arising out of Plaintiff's late father's care and estate. (Am. Compl., ECF No. 10.) This matter is before the Court on Plaintiff's Motion to Collect Service Expenses (ECF No. 49.) For the reasons below, Plaintiff's Motion is **GRANTED IN PART and DENIED IN PART.**

Federal Rule of Civil Procedure 4 provides that a plaintiff may avoid the costs of serving the summons by notifying a defendant that an action has been commenced and requesting that the defendant waive service of a summons. Fed. R. Civ. P. 4(d)(1). The request for waiver must comply with various procedural requirements including that the request for waiver must be made in writing addressed to the individual defendant, must name the court where the complaint was filed, must state the date the request was sent, must inform the defendant of the consequences of waiving or not waiving service, must give the defendant a reasonable time to respond, must be sent by first-class mail or other reliable means, and must be accompanied by a copy of the

complaint, two copies of the waiver form, and a prepaid means for returning the form. Fed. R. Civ. P. 4(d)(1)(A)–(G).

Rule 4 also provides that defendants have “a duty to avoid unnecessary expenses of serving the summons.” Fed. R. Civ. P. 4(d)(1). Accordingly, a defendant who fails, without good cause, to waive service is responsible for “the expenses later incurred in making service” and “the reasonable expenses, including attorney’s fees, of any motion required to collect those service expenses.” *See* Fed. R. Civ. P. 4(d)(1)–(2). “A finding of good cause for failure to waive should be rare.” *RRI Assocs. LLC v. Huntington Way Assocs., LLC*, No. 2:22-CV-3273, 2023 WL 3194723, at *1 (S.D. Ohio May 2, 2023) (citing *Ilaw v. Dept. of Justice*, Civil Action No. 15–609 (CKK), 2015 WL 4381326, at *1 (D.D.C. July 16, 2015) and Fed. R. Civ. P. 4 advisory committee’s note to 1993 amendment). Good cause exists if the defendant did not receive the request or was insufficiently literate in English to understand it. *See* Fed. R. Civ. P. 4 advisory committee’s note to 1993 amendment. A belief that “the claim is unjust or that the court lacks jurisdiction” is not sufficient to demonstrate good cause. *Id.*

Here, Plaintiff complied with the procedural requirements of Rule 4(d)(1)(A)–(G) when requesting that several Defendants waive service. On April 22, 2024, Plaintiff mailed waivers of service of summons forms by USPS mail and email to Defendants Cynthia Hall, Edward Bryan Greer, and Sarah Conroy Greer, as well as by email to Defendant Christopher Tackett, who is acting as Defendants’ attorney. (ECF Nos. 49-1, 49-2, 49-3.) The waivers were accompanied by covering letters that were addressed to each Defendant; named the court where the Complaint was filed; were accompanied by a copy of the Complaint, two copies of the waiver form, and Plaintiff’s email address as a prepaid means for returning the form; informed the Defendants of

the consequences of waiving and not waiving service; stated the date when the request for waiver was sent; and provided 60 days for Defendants to return the waiver. (*Id.*)

Defendants never responded to Plaintiff's request to waive service of the summons. Plaintiff therefore incurred \$325.00 in expenses to serve Defendants personally via a process server on June 28 and July 1, 2024. (ECF Nos. 45, 47–48.) Plaintiff also claims the expenses of “making phone calls with the service provider, printing documents to be served, and [three weeks of] time lost from work in preparing these documents.” (Pl.'s Mot. 2–3, ECF No. 49.)

Defendants have not responded to Plaintiff's motion to collect service expenses, and the time to do so has now expired. There has therefore been no demonstration of good cause for failure to waive service, and Defendants are responsible for Plaintiff's expenses incurred in making service as a result. These expenses do not, however, include Plaintiff's time making phone calls or preparing the waiver documents. Even if Plaintiff had retained an attorney to oversee service or waiver, an attorney's time spent on these tasks is not compensable under Rule 4. *RRI Assocs.*, 2023 WL 3194723, at *2 (citing *Kopacz v. Hopkinsville Surface and Storm Water Utility*, No. 5:09–CV–00203–TBR, 2010 WL 2541170, at *2 (W.D. Ky. June 18, 2010) (“[A]n attorney's fee may be imposed only for the attorney's effort in making a motion . . . arranging for formal service after the defendant has refused a waiver is not a compensable item.”); *Wilson v. Louisiana, ex rel. La. Tax Com'n*, Civil Action No. 10-3338, 2011 WL 1527065, at *2 (E.D. La. Apr. 20, 2011) (“Fees incurred in connection with attempts to make service or obtain a waiver do not fall within the scope of [Rule 4].”)). Plaintiff's own time, for which he has demonstrated no out-of-pocket costs, is *a fortiori* not compensable. And as Plaintiff has provided no evidence of the expenses associated with “printing paper,” Plaintiff has not demonstrated entitlement to those costs.

For the foregoing reasons, Plaintiff’s Motion is **GRANTED IN PART and DENIED IN PART**. Defendants Cynthia Hall, Edward Bryan Greer, and Sarah Conroy Greer are **ORDERED** to pay Plaintiff a total of \$325.00, representing Plaintiff’s process server expenses, **WITHIN 30 DAYS** of the date of this Order.

IT IS SO ORDERED.

/s/ Chelsey M. Vascura

CHELSEY M. VASCURA
UNITED STATES MAGISTRATE JUDGE