

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MARK STREIGHT,

Plaintiff,

v.

BAY AREA CREDIT SERVICE LLC,

Defendant.

ORDER

10-cv-191-slc

Plaintiff Mark Streight filed this civil action on April 7, 2010, against defendant Bay Area Credit Service and has paid the \$350 filing fee. On July 26, 2010, plaintiff filed a waiver of service form for defendant Bay Area Credit Service, LLC, signed by Taylor Pensoneau on June 30, 2010. This form waived service of the summons on the defendant.

Now before the court are plaintiff's motion for judicial determination, dkt. #10, and motion for sanctions, dkt. #11. Attached to plaintiff's motion is a July 21, 2010 letter from Attorney J. Michael True, asserting that he is representing the defendant who is not agreeing to waive service. Plaintiff asks for the court to make a judicial determination as to the effect of the previously filed signed waiver of service. The defendant waived service on June 30. That waiver is valid in this case.

In addressing plaintiff's motion for sanctions, the court is inclined to give defendant's counsel the benefit of the doubt. Although a representative of his client signed the waiver of service on June 30, it was not officially filed in this court until July 26, 2010. Defendant's counsel's letter is dated July 21, 2010. It is possible that he did not know that his client had waived service. Therefore, the court will deny plaintiff's motion for sanctions but urge defendant's counsel to confer with his client in the future in order to prevent any further miscommunications.

ORDER

IT IS ORDERED that:

1. Plaintiff's motion for a judicial determination, dkt. #10, is GRANTED; defendant has waived service of the summons.
2. Plaintiff's motion for sanctions, dkt. #11, is DENIED.

Entered this 30th day of July, 2010.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge