

**UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WASHINGTON**

Justin Baker v. Lifetime Advocacy Plus et al.

Baker · No. 2:25-cv-01785-TL · Decided December 17, 2025

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT WESTERN DISTRICT OF
WASHINGTON 9 AT SEATTLE 10 11 JUSTIN BAKER, CASE NO. 2:25-cv-01785-TL 12
Plaintiff, ORDER STRIKING MOTION FOR v. SERVICE BY THE UNITED STATES 13
LIFETIME ADVOCACY PLUS et al., MARSHAL AS MOOT 14 Defendant(s). 15 16 17 This
matter is before the Court on Plaintiff's Motion for Service of Summons by the 18 United States
Marshal Service.

Dkt. No. 16. Plaintiff is proceeding in this matter in forma 19 pauperis and seeks assistance with
service of the Summons and Complaint on Defendant. 20 Having reviewed Plaintiff's motion and
the relevant record, the Court STRIKES Plaintiff's motion 21 as MOOT. 22 I. LEGAL
STANDARD 23 "A federal court does not have jurisdiction over a defendant unless the defendant
has 24 been served properly under [Federal Rule of Civil Procedure] 4." *Direct Mail Specialists v.*
Eclat 1 || *Computerized Techs., Inc.*, 840 F.2d 685, 688 (9th Cir.

1988). However, "[a] general appearance 2 || or responsive pleading by a defendant that fails to
dispute personal jurisdiction will waive any 3 || defect in service or personal jurisdiction." *Benny*
v. Pipes, 799 F.2d 489, 492 (9th Cir. 1986) 4 || (emphasis added); see also Fed. R. Civ. P. 12(h)(1).
A pleading is responsive when it 5 || demonstrates a clear intention to defend against the lawsuit.
/d.; see also *Benshoof v. Chin*, C24- 6 || cv-808, 2025 WL 1654674, at *3 (W.D.

Wash. June 10, 2025). 7 II. DISCUSSION 8 Pursuant to Federal Rule of Civil Procedure 12, "[a]
party waives any defense listed in 9 || Rule 12(b)(2)-(S) by[]... failing to... include it in a
responsive pleading[.]" Fed. R. Civ. P. 10 || 12(h)(1)(B)(ai). Included in the Rule 12(b) list of
defenses waived is the defense of insufficient 11 || service of process.

Fed. R. Civ. P. 12(b)(5). 12 Here, the answer was filed prior to being served with a summons. By
filing an answer, 13 || Defendants have recognized that this matter is in court and that they intend
to defend against it. 14 || However, Defendants' answer in this matter failed to raise a challenge for
insufficient service of 15 || process. See generally Dkt. No. 32.

Therefore, Defendants waive the requirement for personal 16 || service. As such, Plaintiff's motion
is moot. 17 II. CONCLUSION 18 Accordingly, the Court DIRECTS the clerk to STRIKE

Plaintiff's Motion for Service by the 19 || United States Marshals (Dkt. No. 16). 20 21 Dated this
17th day of December, 2025. 23 Tana Lin United States District Judge

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