

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

OLLIE MCKINNIS,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 07-00560-CG-M
)	
TROY KING, et al.,)	
)	
Defendants.		

ORDER

This matter is before the court on plaintiff’s motion for default judgment against defendant Troy King. (Doc. 47). Plaintiff filed this case alleging that the foreclosure sale of his property violated his due process rights and that certain Alabama Statutes, which address how notice of sale is to be given for foreclosure sales, are unconstitutional. Plaintiff asserts that Troy King was served with the complaint and has failed to answer. However, although plaintiff named Troy King as a defendant in the heading of his complaint, he has not asserted that Troy King participated or was actively involved in anyway in the foreclosure of his property. Other than the heading, Troy King’s name does not appear anywhere in the complaint. Troy King, as the Attorney General of Alabama, was presumably named for notice purposes only.¹ Therefore, the court finds that default judgment is inappropriate. Plaintiff’s motion is hereby **DENIED**.

DONE and ORDERED this 31st day of December, 2008.

/s/ Callie V. S. Granade

CHIEF UNITED STATES DISTRICT JUDGE

¹ The court notes that on May 20, 2008, Troy King, filed an acceptance and waiver acknowledging service and citing ALA. CODE § 6-6-227 which provides that the Attorney General of the state shall be served with a copy of the proceedings in any proceeding which involves the constitutionality of an ordinance, statute or franchise. The acceptance and waiver further states that Troy King “waives any further service upon him of any pleadings, discovery and other matters filed in this cause and presently waives the right to be heard.” (Doc. 35).