

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

DONALD E. SMITH, et al.,)	
Plaintiffs,)	
)	
vs.)	CIVIL ACTION NO. 09-00381-KD-N
)	
FIRST AMERICAN MORTGAGE,)	
TRUST, a/k/a d/b/a NXTLOAN.COM,)	
CORP., et al.,)	
Defendants.)	

ORDER

This matter is before the Court on the Joint Stipulation for Dismissal with prejudice filed on behalf of all of the Plaintiffs in this case and Defendants M&T Bank (“M&T”) and First American Mortgage Trust d/b/a NXTLoan.com (“First American”). (Doc. 63).

The Stipulation indicates that a settlement has been reached with respect to all of the Plaintiffs’ claims against Defendants M&T and First American. The Stipulation is signed by counsel for all parties who have appeared in this action.¹ Therefore, upon consideration of the Stipulation and pursuant to the provisions of Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, it is **ORDERED** that all of Plaintiffs’ claims against Defendants M&T and First American as well as all of Defendant M&T’s claims against Plaintiffs, are hereby **DISMISSED with prejudice** from the active docket of this Court subject to the right of any party to reinstate the action within **180 days** of the date of this Order should the settlement agreement not be consummated.²

¹ While not signed by counsel for Defendant First Continental Mortgage, Inc., that party has not appeared in this case and a motion for default judgment against this defendant is also pending.

² For example, to the extent any issues arise regarding settlement, such as whether Plaintiffs cooperate fully with the requirements of occupation and vacation of the Property at issue on or before

No other order shall be forthcoming from the Court except upon application by either party for final judgment as prescribed by Rule 58, Federal Rules of Civil Procedure. Each party shall bear their own costs, expenses, and attorney fees unless stipulated otherwise.

DONE and ORDERED this the **20th** day of **April 2010**.

/s/ Kristi K. DuBose

KRISTI K. DUBOSE

UNITED STATES DISTRICT JUDGE

September 15, 2010, in accordance with the terms of the settlement.