

MINUTES

CASE NUMBER: CIVIL NO. 07-00356HG-LEK
CASE NAME: Thomas F. Schmidt vs. Fidelity National Title Insurance Company, et al.
ATTYS FOR PLA:
ATTYS FOR DEFT:
INTERPRETER:

JUDGE: Leslie E. Kobayashi REPORTER:
DATE: 06/18/2009 TIME:

**COURT ACTION: EO: FINDINGS AND RECOMMENDATION TO DENY
THIRD-PARTY DEFENDANTS' MOTION TO DISMISS**

Before the Court, pursuant to a designation by United States District Judge Helen Gillmor, is Third-Party Defendants Damon L. Schmidt and Lorinna Schmidt's ("Damon and Lorinna Schmidt") Motion to Dismiss, for Fraud on the Court, Fidelity National Title Insurance Company's Counterclaim and Third-Party Complaint, to Set Aside All Prejudgment Garnishee Orders, for an Award of Attorneys' Fees and Costs, and for the Issuance of an Order to Show Cause Why Fidelity National Title Insurance Company Should Not Be Held in Contempt of Court ("Motion to Dismiss"). The Court finds this matter suitable for disposition without a hearing pursuant to Local Rule 7.2(d).

The dispositive motions deadline in this case was November 24, 2008. On May 26, 2009, Damon and Lorinna Schmidt filed an ex parte motion to suspend the pretrial deadlines to, *inter alia*, allow a hearing on the Motion to Dismiss ("Ex Parte Motion"). On June 18, 2009, this Court issued an order denying the Ex Parte Motion. This Court therefore FINDS AND RECOMMENDS that the district judge DENY the Motion to Dismiss as untimely.

IT IS SO FOUND AND RECOMMENDED.

Submitted by: Warren N. Nakamura, Courtroom Manager