

**UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO**

HAP TAYLOR & SONS, INC. d/b/a KNIFE RIVER, an Oregon corporation doing business as Knife River,

Plaintiffs,

vs.

DENNIS KROMANN and IRMA KROMANN, husband and wife, WILLIAM H. WEAVER, PE/LS, individually; and ALL PERSONS IN POSSESSION OR CLAIMING ANY RIGHT TO POSSESSION,

Defendants.

WILLIAM H. WEAVER, PE/LS, individually

Counterplaintiff,

vs.

HAP TAYLOR & SONS, INC. d/b/a KNIFE RIVER, an Oregon corporation doing business as Knife River,

Counterdefendant.

WILLIAM H. WEAVER, PE/LS, individually,

Cross-Claimant,

Case No.: CV 08-00449-EJL-REB

**MEMORANDUM DECISION AND
ORDER RE: MOTION FOR RULE
56(f)**

(Docket No. 62)

vs.

DENNIS KROMANN and IRMA KROMANN,
husband and wife, and DOES I-X, whose true
names are unknown representing ALL PERSONS
IN POSSESSION OR CLAIMING ANY RIGHT
TO POSSESSION

Cross-Defendants

WILLIAM H. WEAVER, PE/LS, individually,

Third-Party Plaintiff,

vs.

ANB FINANCIAL N.A., a national association;
PIONEER TITLE COMPANY OF ADA
COUNTY, an Idaho corporation; NORTHWEST
TRUSTEE SERVICES, INC., an Idaho corporation,

Third-Party Defendant

Currently pending before the Court is Third-Party Defendant Federal Deposit Insurance Corporation's ("FDIC") Motion for Rule 56(f) Relief (Docket No. 62). Having carefully reviewed the record and otherwise being fully advised, the Court enters the following Memorandum Decision and Order:

DISCUSSION

Third-Party Plaintiff William H. Weaver ("Weaver") filed his motion for summary judgment on October 18, 2010 (Docket No. 59). The next day, FDIC served a notice of deposition duces tecum on Weaver, along with interrogatories and requests for production of documents. Weaver's deposition was set to take place on November 4, 2010; the responses to

the discovery requests are due around November 18, 2010 (30 days from date of service).¹

FDIC's response to Weaver's motion for summary judgment is due on November 12, 2010.

To accommodate the deposition and discovery responses, FDIC seeks an extension of time to respond to Weaver's motion for summary judgment, requesting until January 15, 2011 to respond. Weaver objects to FDIC's request, arguing that FDIC "has had ample opportunity to engage in discovery of the factual basis underlying Mr. Weaver's claims . . . - the FDIC simply chose not to engage in that undertaking." *See* Opp. To Mot. for Extension, p. 5 (Docket No. 67).

The Court generally agrees with Weaver that FDIC has not been as diligent as it could have been with respect to preparing its defense (even when considering its decision "to exhaust its potential legal defenses on motion practice before engaging in more rigorous discovery" (*see* Reply in Supp. of Mot. for Extension, p. 5 (Docket No. 69)). Still, the Court sees little prejudice to Weaver in extending FDIC's response date.² Moreover, there are no deadlines (including no trial date) that appear to be affected in granting FDIC's request for an extension.

Having said this, there is no obvious reason to extend FDIC's response deadline to January 15, 2011. Instead, FDIC's response to Weaver's motion for summary judgment will be due on or before December 9, 2010.

ORDER

Based upon the foregoing, FDIC's Motion for Rule 56(f) Relief (Docket No. 62) is GRANTED in part and DENIED in part. FDIC's response to Weaver's motion for summary

¹ The parties are directed to consult the applicable Federal Rules of Civil Procedure and Local Rules to determine the proper response date.

² In the event Weaver needs additional time to submit his reply brief in support of his motion for summary judgment, he is invited to move the Court for such relief in the event the parties cannot reach a stipulated agreement.

judgment will be extended, however, not to the extent that FDIC requests. Instead, FDIC's response to Weaver's motion for summary judgment will be due on or before December 9, 2010.



DATED: **November 8, 2010**

A handwritten signature in black ink, appearing to read "Ronald E. Bush".

Honorable Ronald E. Bush
U. S. Magistrate Judge