

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

CHARLES EDWARD LINCOLN, III

Plaintiff,

v.

NORTHWEST TRUSTEE SERVICES,
et al.,

Defendants.

Case No. CV 09-0430-S-BLW

PRETRIAL ORDER

Finding good cause therefore,

On December 16, 2010, the Court held a pretrial conference in this matter.

Plaintiff Lincoln told defense counsel that he would not be participating and he did not participate, nor was he represented by any attorney. Based on that conference, the Court issues the following order:

NOW THEREFORE IT IS HEREBY ORDERED, that

1. **Jury Trial or Court Trial:** The parties shall file briefs (5 pages maximum) on or before December 23, 2010, as to whether the plaintiff is entitled to a jury trial as demanded in the complaint. No further briefing will be allowed

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and the Court will make a ruling based on the briefs.

2. **Dismissing Defendants:** The Court will dismiss this action as to the three named defendants for whom there is no evidence of service in the record: (1) American Title Corporation; (2) First American Corporation; and (3) Florida Default Group. In addition, the Court will dismiss this action as to named defendant Northwest Trustee Services, for whom there is a proof of service in the record, unless a motion for default is filed on or before December 23, 2010.
3. **Trial Date:** Defense counsel stated that plaintiff told them that he may seek a trial continuance due to his medical condition. The Court will not even consider a trial continuance for this reason unless plaintiff files a motion supported by the affidavit of a health care professional representing that plaintiff cannot participate in a trial due to a medical condition. The affidavit must contain contact information so that the Court can contact the person directly. The Court will determine whether the motion and affidavit set forth sufficient cause for a continuance.
4. **Pretrial Motions:** Due to a power outage at defense counsel's office, the Court will extend the time for all parties to file pretrial motions in limine to December 17, 2010. All responses must be filed on or before December 23,

2010.

ORDER

In accordance with the statements above,

NOW THEREFORE IT IS HEREBY ORDERED, that the following defendants are hereby DISMISSED: (1) American Title Corporation; (2) First American Corporation; and (3) Florida Default Group.

IT IS FURTHER ORDERED, that the Court will dismiss this action at to named defendant Northwest Trustee Services, for whom there is a proof of service in the record, unless a motion for default is filed on or before December 23, 2010.

IT IS FURTHER ORDERED, that the parties shall file briefs (5 pages maximum) on or before December 23, 2010, as to whether the plaintiff is entitled to a jury trial as demanded in the complaint.

IT IS FURTHER ORDERED, that pretrial motions in limine shall be filed on or before December 17, 2010. All responses must be filed on or before December 23, 2010.

DATED: **December 16, 2010**




B. LYNN WINMILL
Chief Judge
United States District Court