

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

FILED

OCT 31 2016

Clerk, U.S. District Court
District Of Montana
Missoula

BILLY BUDD SULLIVAN,

CV 16-98-M-DLC-JCL

Plaintiff,

ORDER

vs.

CHICAGO TITLE INSURANCE
COMPANY,

Defendant.

By order entered September 6, 2016, the Court granted Plaintiff Billy Sullivan leave to proceed in forma pauperis under 28 U.S.C. § 1915(a). The Court reviewed his pleading pursuant to section 1915(e) and found that his allegations at least state a claim upon which relief could be granted against Defendant Chicago Title Insurance Co. Therefore, the Court ordered Sullivan to provide an address for service of process on Defendant. He has since filed the address with the Court.

Because Sullivan is proceeding in forma pauperis, the Court is required to “issue and serve all process” in his case. 28 U.S.C. § 1915(d). He is entitled to have his complaint and summons served by the United States Marshal, or otherwise served by the Court. Fed. R. Civ. P. 4(c)(3). Accordingly, the Court

will serve Sullivan's complaint on Defendant, and the Court will request that it waive formal service of process.

Based on the foregoing, the Court enters the following:

ORDER

1. Pursuant to 28 U.S.C. § 1915(d) and Fed. R. Civ. P. 4(d), the Court requests that Chicago Title Insurance Co. waive service of summons by executing the attached Waiver of Service of Summons.

The Waiver must be returned to the Court within thirty (30) days of the entry date reflected on the Notice of Electronic Filing for this Order. If Defendant returns the Waiver of Service of Summons, an answer or appropriate motion will be due from it within 60 days after this request for waiver was sent as reflected on the Notice of Electronic Filing for this Order, pursuant to Fed. R. Civ. P. 4(d)(3) and 12(a)(1)(A)(ii).

2. The Clerk of Court shall forward the documents listed below to Defendant as follows:

Chicago Title Insurance Co.
2533 N. 117th Ave.
Omaha, Nebraska 68164

* this Order;

* the Order entered September 6, 2016;

- * a Notice of Lawsuit & Request to Waive Service of Summons;
- * a Waiver of Service of Summons; and
- * Sullivan's Complaint filed August 3, 2016.

Counsel for Defendant must file a "Notice of Appearance" as a separate document at the time an Answer or Rule 12 motion is filed. *See* D. Mont. L.R. 12.2.

3. Any party's request that the Court grant relief, make a ruling, or take an action of any kind must be made in the form of a motion, with an appropriate caption designating the name of the motion, served on all parties to the litigation, pursuant to Federal Rules of Civil Procedure 7, 10, and 11. If a party wishes to give the Court information, such information must be presented in the form of a notice. The Court will not consider requests made or information presented in letter form.

4. Pursuant to Fed. R. Civ. P. 5(a), all documents presented for the Court's consideration must be simultaneously served in the manner required by Fed. R. Civ. P. 5(b). Each party shall comply with the Certificate of Service requirements set forth in Fed. R. Civ. P. 5(d). The certificate of service must state the date on which the document was deposited in the mail and the name and address of the person to whom the document was sent. The sender must sign the certificate of

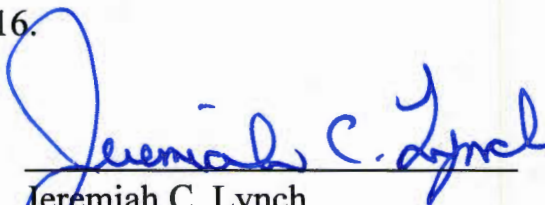
service.

5. Sullivan shall not make any motion for default until at least seventy (70) days after the date of this Order.

6. Sullivan shall notify the Court immediately if his address changes. Failure to do so may be cause for dismissal of this case without further notice.

7. Sullivan is advised that his failure to comply with the Court's orders may result in a recommendation that this case be dismissed with prejudice pursuant to Fed. R. Civ. P. 41(b). He is advised that the Court may dismiss this case under Rule 41(b) on its own motion without awaiting a defense motion. *See, e.g., Link v. Wabash Railroad Co.*, 370 U.S. 626, 633 (1962); *Hells Canyon Preservation Council v. United States Forest Serv.*, 403 F.3d 683, 689 (9th Cir. 2005).

DATED this 31st day of October, 2016.


Jeremiah C. Lynch
United States Magistrate Judge