

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

MARTIN BETTWIESER,)	
)	Case No. CV-06-142-S-BLW
Plaintiff,)	
)	MEMORANDUM DECISION
v.)	AND ORDER
)	
MARTIN LUCAS, LISA)	
BUTTERWORTH, JIM SYKES,)	
UNITED STATES POSTAL)	
SERVICE,)	
)	
Defendants.)	
_____)	

MEMORANDUM DECISION

The Court has before it a number of motions, filed by both sides, that have never been responded to. In this Order, the Court will clarify the status of this case and set deadlines for the responses.

The Court turns first to plaintiff's "Motion and Statement for Filing of Case." The plaintiff's motion seeks to have the Order of Conditional Filing resolved. That Order is routinely issued by the Clerk's Office in cases where the plaintiff has not paid the filing fee. In this case, however, the plaintiff did pay the filing fee and so the Order was mistakenly entered. To clarify the status of this case, the Court will hold that this case is deemed filed, and that the Order of

Conditional Filing be withdrawn.

The Court turns next to the Government's motion to dismiss, filed on November 16, 2006. Plaintiff has never responded and never sought additional time to respond. Plaintiff's failure to respond would typically result in the Court finding that plaintiff had waived his right to respond. However, in this case, the Order of Conditional Filing created confusion as all parties awaiting a ruling on whether the case was deemed filed. For that reason, the Court will grant plaintiff additional time to respond to the Government's motion to dismiss.

The Court turns next to plaintiff's motion for default and "Objection to U.S. District Attorney's Representation of Individual Defendants." These two matters were filed on December 7, 2006, and have not been responded to by the Government. Again, the Order of Conditional Filing may have created confusion as all parties awaiting a ruling as to whether the case would be deemed filed. For the same reasons as stated above with regard to plaintiff's lack of response, the Court will grant the Government additional time to respond to these motions.

ORDER

In accordance with the Memorandum Decision set forth above,

NOW THEREFORE IT IS HEREBY ORDERED, that the Order of Conditional Filing (Docket No. 2) is DEEMED WITHDRAWN, and this case is

deemed to be filed for all purposes.

IT IS FURTHER ORDERED, that plaintiff Martin Bettwieser file a response to the Government's motion to dismiss (Docket No. 6) on or before **March 19, 2007**. If plaintiff does not file a response by that date, the Court will find that he has waived his right to respond, and the Court will decide the motion on the Government's submissions alone. If plaintiff does respond, the Government may file a reply brief on or before **March 30, 2007**.

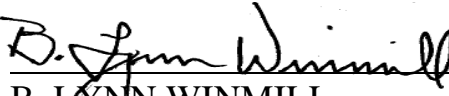
IT IS FURTHER ORDERED, that the Government file a response to plaintiff's motion for default (Docket No. 11) and "Objection to U.S. District Attorney's Representation of Individual Defendants" (Docket No. 12) on or before **March 19, 2007**. If the Government does not file a response by that date, the Court will find that it has waived its right to respond, and the Court will decide the motion on the plaintiff's submissions alone. If the Government does respond, the plaintiff may file a reply brief on or before **March 30, 2007**.

IT IS FURTHER ORDERED, that once the briefing is complete, the Court will decide the issues on the briefs without oral argument unless the Court, in its

discretion, deems oral argument is necessary.



DATED: **February 26, 2007**


B. LYNN WINMILL
Chief Judge
United States District Court