

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

DOUGLAS JOHN FITZGERALD,

Plaintiff,

v.

PNCBANK, PNC MORTGAGE, a
division of PNC BANK, NA, FIRST
AMERICAN TITLE INSURANCE
COMPANY, PIONEER TITLE
COMPANY, AND MERS INC.,

Defendants,

Case No. 1:10-CV-452-BLW

**MEMORANDUM DECISION AND
ORDER**

INTRODUCTION

Before the Court is Defendant First American Title Insurance Company's Motion to Dismiss (Dkt. 35). Defendant American Title Insurance Company moves to dismiss Plaintiff Douglas John Fitzgerald's claims for violations of the Fair Debt Collection Practices Act, 15 U.S.C § 1692, et seq. and the Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq. Fitzgerald failed to file a response.

District of Idaho Local Civil Rule 7.1 provides that a party opposing a motion shall file a memorandum in opposition to the relief requested within twenty-one (21) days after being served with the memorandum in support of the motion. Dist. Idaho Loc. Civ. R. 7.1(c)(1). To the

extent that the non-moving party does not object to the relief requested in the motion, the party is required to file a notice of non-opposition to the court. Dist. Idaho Loc. Civ. R. 7.1(a)(5).

Failure to file either a notice of non-opposition or a memorandum in opposition to a motion may be deemed as a consent to the relief requested. Dist. Idaho Loc. Civ. R. 7.1(f). And the Ninth Circuit has held that a district court may properly grant a motion to dismiss pursuant to a local rule, for failure to respond. *See generally Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

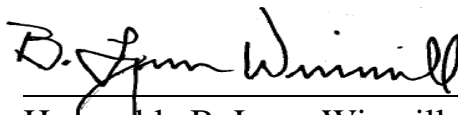
The allotted time provided by District of Idaho Local Civil Rule 7.1(c)(1), by July 25, 2011, has elapsed without Fitzgerald filing a response to First American's Motion. Because of Fitzgerald's failure to respond, and pursuant to District of Idaho Local Civil Rule 7.1(f) and *Ghazali*, the Court deems Fitzgerald's failure to file an opposition to First American's Motion as consent to the requested relief. Moreover, the Court has conducted a thorough and independent review of Fitzgerald's complaint and deems dismissal appropriate.

ORDER

IT IS ORDERED that Defendant First American Title Insurance Company's Motion to Dismiss (Dkt. 35) is GRANTED.



DATED: **August 5, 2011**


Honorable B. Lynn Winmill
Chief U. S. District Judge