

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

THE BANK OF NEW YORK MELLON F/K/A THE BANK  
OF NEW YORK, AS TRUSTEE FOR THE CERTIFICATE  
HOLDERS OF CWABS, INC., ASSET-BACKED  
CERTIFICATES, SERIES 2006-7,

Plaintiff,

v.

CARLA J. MCSMITH, ROBERT D. MCSMITH, US BANK  
NATIONAL ASSOCIATION, AS TRUSTEE FOR THE C-  
BASS MORTGAGE LOAN ASSET-BACKED  
CERTIFICATES, SERIES 2006-DL1, STATE OF ILLINOIS  
DEPARTMENT OF EMPLOYMENT SECURITY, UNITED  
STATES OF AMERICA, BENEFICIAL ILLINOIS, INC.,  
D/B/A BENEFICIAL MORTGAGE COMPANY OF  
ILLINOIS, CITIBANK (SOUTH DAKOTA), N.A.  
UNKNOWN TENANTS, UNKNOWN OWNERS AND  
NON-RECORD CLAIMANTS,

Defendants.

No. 11-cv-972-JPG-DGW

**MEMORANDUM AND ORDER**

This matter comes before the Court on the notice of dismissal (Doc. 32) pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) filed by plaintiff the Bank of New York Mellon f/k/a the Bank of New York, as Trustee for the Certificate Holders of CWABS, Inc., Asset-backed Certificates, Series 2006-7, of its claims against defendants Unknown Tenants, Unknown Owners and Non-Record Claimants. Rule 41(a)(1)(A)(i) allows a plaintiff to dismiss an action without a court order at any time before the opposing party serves an answer or a motion for summary judgment. The applicable defendants have not served an answer or motion for summary judgment in this case. Because the plaintiff has an absolute right to dismiss this case against those defendants at the present time, the Court finds that the claims against defendants Unknown Tenants, Unknown Owners and Non-Record Claimants are **DISMISSED without prejudice**.

**Dated:** September 26, 2012

s/ J. Phil Gilbert  
**J. PHIL GILBERT**  
**DISTRICT JUDGE**