

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

MICAH J. WALL a/k/a MICAH J. WALL-ELLIS,

Plaintiff,

vs.

CIVIL ACTION NO. 11-00193-KD-B

METROPOLITAN LIFE INSURANCE COMPANY,

Defendant.

METROPOLITAN LIFE INSURANCE COMPANY,

Counter Claimant and
Third Party Plaintiff,

vs.

MICAH J. WALL a/k/a MICAH J. WALL-ELLIS,

Counter Defendant,

And,

V.R.E. (a minor), W.C.E. (a minor),

Third Party Defendants.

ORDER

This action is before the Court on the Motion to Deposit Funds with Court and Appoint Guardian ad Litem for Minor Third Party Defendants filed by Metropolitan Life Insurance Company (MetLife) and the response filed by Plaintiff Micah J. Wall (Wall) (Docs. 18, 19). Upon consideration and for the reasons set forth herein, the motion is **GRANTED in part.**

Motion to Deposit Funds

MetLife moves the Court for an order to direct it to deposit with the Court the insurance proceeds of \$50,000.00, together with interest accrued. Wall responds that she does not object to the deposit but does not agree that MetLife's counterclaim for interpleader is proper. Upon consideration, the motion is **GRANTED**.

MetLife is **directed** to deposit with the Court, the insurance proceeds of \$50,000.00 and all interest accrued thereon, in accordance with Rule 67 of the Federal Rules of Civil Procedure and S.D. Ala. Local Rule 67.1. Upon receipt, the Clerk of the Court is **directed** to deposit the funds in an interest bearing account at an approved depository institution until such time as this Court enters an order of disbursement.

Motion to Appoint Guardian ad Litem

MetLife moves the Court for appointment of a guardian ad litem to protect the interests of the minors V.R.E. and W.C.E. Wall responds that that this Court previously appointed attorney Brenda J. Pierce as guardian ad litem and that MetLife's request is moot. Upon review of the docket, the Court finds that on August 11, 2011, Magistrate Judge Sonja F. Bivins, addressed this issue. (Doc. 17). Therefore, for clarification, pursuant to Rule 17(c) of the Federal Rules of Civil Procedure and this Court's inherent discretion,¹ the motion is **GRANTED** and attorney **Brenda J. Pierce**, is appointed as guardian ad litem for the minor third party defendants V.R.E. and W.C.E.

Accordingly, the guardian ad litem Pierce shall file on or before **Friday, October 28**,

¹ *McLean v. GMAC Mortgage Corp.*, 398 Fed.Appx. 467, 470 (11th Cir. Sept. 30, 2010) ("It is well established that the appointment of a guardian ad litem is a procedural question controlled by Rule 17(c) of the Federal Rules of Civil Procedure.") (quoting *Burke v. Smith*, 252 F. 3d 1260, 1264 (11th Cir. 2001)).

2011, a **response** to MetLife's motion and Wall's response (Docs. 18, 19). Any **reply** to the guardian ad litem's response shall be due on or before **November 3, 2011**.

The Clerk of the Court is **directed** to mail a copy of this order to Pierce.

The remaining issues raised in MetLife's motion

MetLife also moves the Court to restrain and enjoin Wall, V.R.E. and W.C.E. from instituting any further action or proceeding against MetLife; to require Wall, V.R.E. and W.C.E. to litigate or settle this issue among themselves; to dismiss MetLife with prejudice and discharge MetLife, WalMart, Inc, and the benefits plan from further liability upon paying the funds into court; and to award MetLife its costs and attorneys fees. These remaining issues shall be addressed after the Court receives the response from the guardian ad litem and any replies.

DONE and **ORDERED** this the 17th day of October, 2011.

/s/ Kristi K. DuBose

KRISTI K. DuBOSE

UNITED STATES DISTRICT JUDGE