

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

JS-6

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

THE GUARDIAN LIFE INSURANCE
COMPANY OF AMERICA,

Plaintiff,

v.

LORENA ARMENTA ARRATIA,

Defendant.

Case No. CV13-3767 GAF (CWx)

**JUDGMENT IN FAVOR OF
PLAINTIFF THE GUARDIAN LIFE
INSURANCE COMPANY OF
AMERICA**

Hearing Date: October 28, 2013
Time: 9:30 a.m.
Judge: Hon. Gary A. Feess

Complaint Filed: May 28, 2013

1 **I. INTRODUCTION**

2 The Guardian Life Insurance Company of America ("The Guardian") brought
3 a Complaint for Declaratory Relief under 28 U.S.C. § 2201 ("the Complaint")
4 against defendant Lorena Armenta Arratia ("defendant"). This Court has jurisdiction
5 over this matter based on diversity of citizenship pursuant to 28 U.S.C. §1332
6 because The Guardian and defendant are citizens of different states and the amount
7 in controversy exceeds the sum of \$75,000, exclusive of interest and costs. Venue is
8 proper in this Court pursuant to 28 U.S.C. §1391(a) and (b) because defendant
9 resides within the Central District of California.

10 Based on defendant's representations as set forth in the Complaint, The
11 Guardian issued life insurance policy number 6468829 to defendant on April 9,
12 2010, life insurance policy number 6482905 on June 26, 2010, and life insurance
13 policy number 6482906 on June 26, 2010. Also in reliance on false representations
14 by defendant regarding her medical history, as specified in the Complaint, The
15 Guardian issued to defendant Waiver of Premium Riders with life insurance policies
16 6468829, 6482905, and 6482906. Under these Riders, The Guardian would waive
17 the premium under life insurance policies 6468829, 6482905, and 6482906 in the
18 event that defendant was totally disabled as defined in the Riders.

19 By way of the Complaint, The Guardian seeks a judgment from this Court that
20 the Waiver of Premium Riders issued to defendant with life insurance policies
21 6468829, 6482905, and 6482906 are rescinded based on the false representations by
22 defendant regarding her medical history, as spelled out in the Complaint, and
23 discussed in detail in this Court's October 24, 2013, order granting the motion for
24 entry of default judgment.

25 Defendant was served with the Complaint on July 11, 2013 and did not
26 respond within the required time-period. On August 6, 2013, the Clerk of the Court
27 entered default against defendant.

28 ///

1 **II. JUDGMENT**

2 Pursuant to defendant's default and this Court's order of October 24, 2013, the
3 Court hereby enters the following Judgment in favor of The Guardian, and against
4 defendant, on The Guardian's Complaint for Declaratory Relief:

5 The Waiver of Premium Rider, issued by The Guardian to defendant as a rider
6 to life insurance policy number 6468829, is hereby rescinded. The Waiver of
7 Premium Rider, issued by The Guardian to defendant as a rider to life insurance
8 policy number 6482905, is hereby rescinded. The Waiver of Premium Rider, issued
9 by The Guardian to defendant as a rider to life insurance policy number 6482906, is
10 hereby rescinded. These waiver of premium riders are void from their inception and
11 never would have been issued by The Guardian had accurate information been
12 provided by defendant on the applications for life insurance policies 6468829,
13 6482905, and 6482906. In that these Waiver of Premium Riders are void from their
14 inception, The Guardian is not now, and never has been, required to waive the
15 premium payments for life insurance policies 6468829, 6482905, and 6482906 under
16 these Waiver of Premium Riders.

17 The Guardian must refund to defendant the premium paid under the Waiver of
18 Premium Riders by mailing a check made payable to defendant to the address for
19 defendant that is on record with The Guardian. Such payment shall be made no later
20 than November 22, 2013.

21 The Guardian is entitled to its costs of suit.

22 IT IS SO ORDERED.



23
24
25 Dated: October 24, 2013

26 JS-6

27 THE HONORABLE GARY A. FEESS
28 UNITED STATES DISTRICT COURT
JUDGE