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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KATHLEEN DANIELS,)	
)	
Plaintiff,)	No. C06-6348 (MHP) BZ
)	
v.)	ORDER DENYING DEFENDANTS'
)	MOTION TO CONTINUE
UNUM LIFE INSURANCE COMPANY)	SETTLEMENT CONFERENCE
OF AMERICA et al.,)	AND GRANTING MOTION TO
)	RECOVER COSTS
Defendants.)	
_____)	

Having reviewed both parties' papers regarding defendants' Motions, and following a hearing, **IT IS HEREBY ORDERED** as follows:

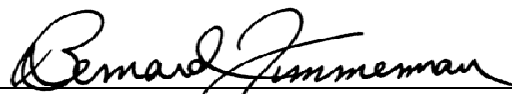
1. Plaintiff violated Rule 5 of the Federal Rules of Civil Procedure, which mandates that all pleadings and papers be served on all parties to an action, by failing to serve opposing counsel with the documents she provided the court to support her request for a continuance of the settlement conference. To the degree that plaintiff's request for a continuance of the settlement conference could be viewed as an *ex parte* motion, plaintiff also failed to comply with Local Rule 7-10.

1 2. Plaintiff has offered no satisfactory excuse for her
2 failures to provide opposing counsel with the documents
3 especially as she was capable of faxing and providing those
4 same documents to the court.

5 3. Plaintiff's failure to comply with Rule 5 of the
6 Federal Rules of Civil Procedure and the Local Rules governing
7 *ex parte* motions warrant the imposition of sanctions against
8 plaintiff pursuant to Rule 16(f) of the Federal Rules of Civil
9 Procedure and Local Rule 1-4. Defendants, however, have not
10 shown that every expense incurred by their client
11 representative, Ms. Bernard, was a necessary, unavoidable
12 expense. Most significantly, they have not provided a
13 declaration from Ms. Bernard explaining why she chose to spend
14 the night in San Francisco rather than return to Burbank once
15 she learned the conference had been continued. Accordingly,
16 plaintiff is ordered to pay to defendants the cost of Ms.
17 Bernard's flight to the Bay Area in the amount of \$219.00; and
18 Ms. Bernard's Burbank parking fees in the amount of \$20.00,
19 for a total of \$239.00.

20 4. Defendants' motion to continue the settlement
21 conference scheduled for December 2, 2008 is **DENIED**.

22 Dated: October 29, 2008

23 
24 Bernard Zimmerman

25 United States Magistrate Judge

26 G:\BZALL\BZCASES\DANIELS V. UNUM\ORDER DENYING DEFENDANT'S MOTION TO CONT
27 S.C. AND GRANTING RECOVER COSTS.wpd
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