UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

JOYCE GOERTZEN,

Plaintiff,

v.

GREAT AMERICAN LIFE INSURANCE COMPANY,

Defendant.

Case No. 16-cv-240-YGR

ORDER RE: DISCOVERY DISPUTE LETTER; REFERRING PRIVILEGE DISPUTE TO MAGISTRATE JUDGE

Re: Dkt. No. 65

Currently pending before the Court is the parties' joint discovery dispute letter. (Dkt. No. 65.) Plaintiff Joyce Goertzen seeks further responses to two sets of discovery: (1) answers to Plaintiffs Special Interrogatories 3 and 4; and (2) documents responsive to plaintiff's requests for documents withheld on the basis of attorney-client privilege by defendant Great American Life Insurance Co. Inc. The Court **ORDERS** as follows:

(1) The Court **OVERRULES** defendant's objection based upon California Insurance Code 791.3. *See Irvington-Moore, Inc. v. Superior Court*, 14 Cal. App. 4th 733, 741 (1993) (Cal. Ins. Code § 791 *et seq.* does not create a privilege against discovery in litigation); *Colonial Life & Accident Ins. Co. v. Superior Court*, 31 Cal. 3d 785, 792 (1982) ("Without doubt, the discovery of the names, addresses and files of other Colonial claimants with whom Sharkey attempted settlements is relevant to the subject matter of this action and may lead to admissible evidence.")

Upon certification of a class herein, plaintiff will be entitled to such information about members of the class. Prior to class certification, defendant will only be permitted to withhold this information about putative class members if it will not contest class certification by raising arguments or presenting individualized evidence that putative class members' reliance creates significant individual issues precluding certification. Otherwise, defendant shall provide substantive responses to the interrogatories, as subsequently limited by plaintiff, no later than **AUGUST 10, 2017**.

(2) As to the documents withheld on grounds of privilege described in Docket No. 65,

pursuant to Local Rule 72-1, this dispute is **REFERRED** to a Magistrate Judge for resolution. The Magistrate Judge to whom the matter is assigned will advise the parties of how the matter will proceed. The Magistrate Judge may issue a ruling, order additional briefing, or set a telephone conference or a hearing.

IT IS SO ORDERED.

Dated: August 1, 2017

YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE

cc: MagRef Email; Assigned Magistrate Judge

United States District Court
Northern District of California