

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

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

PRINCIPAL LIFE INSURANCE COMPANY,)	Case No. 10cv510-BTM (BLM)
)	
Plaintiff,)	ORDER DENYING PLAINTIFF'S <i>EX</i>
)	<i>PARTE</i> APPLICATION TO
v.)	CONTINUE MANDATORY
)	SETTLEMENT CONFERENCE
KASRA SADR, AS TRUSTEE FOR THE)	
ALTON LARSEN FAMILY INSURANCE)	[ECF No. 69]
TRUST, GABRIEL GIORDANO, AND DOES)	
1-10,)	
)	
Defendants.)	

On October 10, 2011, Plaintiff filed an *ex parte* application to continue the Mandatory Settlement Conference ("MSC") currently set for October 18, 2011. ECF No. 69. In support, Plaintiff states that a later MSC date may "lead to a better chance to resolve this matter." ECF No. 69-1 at 2. Plaintiff also states that there are two motions for summary judgment/adjudication pending and that resolution of the motions may significantly narrow the issues in this litigation. Id. Finally, Plaintiff argues that "conducting the MSC at a date closer to the pretrial conference may lead to more successful settlement discussions." Id.

Defendant Kasra Sadr, as Trustee of the Alton Larsen Family Insurance Trust, opposes Plaintiff's application stating that "delaying the mandatory settlement conference only ensures that the parties are forced to generate more legal fees and costs." ECF No. 70. In addition, Defendant argues that: (1) there is no guarantee that the District Court will

1 have decided the pending motions for summary judgment/adjudication before November
2 14, 2011, the new date Plaintiff proposes for the MSC; (2) a continuance is contrary to the
3 parties' intent behind the previous agreement to continue the MSC; and (3) Plaintiff could
4 have filed its motion weeks ago as opposed to one week before the scheduled MSC. Id.
5 Finally, Defendant Kasra Sadr notes that Defendant Gabriel Giordano also opposes any
6 further postponement of the MSC. Id. at 3. For the following reasons, Plaintiff's request
7 to continue the MSC is **DENIED**.

8 First, Plaintiff's application to continue the MSC is untimely. Plaintiff has had more
9 than a month to request a continuance of the MSC which was set on September 6, 2011.
10 ECF No. 56. Additionally, Plaintiff has had almost three weeks to request a new MSC date
11 since this Court denied Plaintiff's request to have its corporate representative appear at the
12 MSC telephonically on September 23, 2011, and directed Plaintiff to coordinate a new date
13 and time for the MSC if October 18, 2011 was unworkable. ECF No. 66. Instead, Plaintiff
14 has waited until the week before the scheduled MSC to seek out a continuance without any
15 explanation for its delay. ECF No. 69. Second, the Court finds that the current status of the
16 case is more conducive to settlement than that of the proposed date. It is not certain that
17 continuing the MSC to November will mean that the pending motions for summary
18 judgment/adjudication will be resolved or that they will be resolved in such a way that the
19 issues in this litigation will be narrowed and assist in settling the matter. Accordingly, the
20 MSC will remain as set.

21 **IT IS SO ORDERED.**

22
23 DATED: October 12, 2011

24 

25 BARBARA L. MAJOR
26 United States Magistrate Judge
27
28