

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Boyd N. Boland

Case No. 04-cv-01619-LTB-BNB

TINA GARCIA,

Plaintiff,

v.

BERKSHIRE LIFE INSURANCE COMPANY OF AMERICA, a wholly owned subsidiary of the Guardian Life Insurance Company of America, and
THE GUARDIAN LIFE INSURANCE COMPANY OF AMERICA, a foreign insurance company,

Defendants.

ORDER

This matter arises on the following:

- (1) **Defendants' Unopposed Motion to Seal** [Doc. # 424, filed 2/4/2010] (the "Motion to Seal");
- (1) **Plaintiff's Motion for Reasonable Accomodation [sic] for Physical Traumatic Brain Injury Disability** [Doc. # 436, filed 2/19/2010] (the "Motion for Accommodation");
- (2) **Plaintiff's Motion In Limine to Exclude Claims Under Rules 26(a), for Berkshire's Failure to Certify the Release of the Claims File** [Doc. # 437, filed 2/19/2010] (the "Motion In Limine"); and
- (3) **Plaintiff's Motion for Protective Order and a Hearing on the Merits** [Doc. # 441, filed 2/26/2010] (the "Motion for Protective Order").

By a minute order [Doc. # 453, filed 6/4/2010], I set the Motion for Accommodation, Motion In Limine, and Motion for Protective Order for hearing this afternoon at 1:30 p.m. Defense counsel appeared as required, but the plaintiff, who is proceeding *pro se*, did not appear and did not contact the court in any way.

IT IS ORDERED that the Motion to Seal [Doc. # 424] is GRANTED. The Clerk of the Court is directed to seal from public view Doc. # 309-6. The defendants shall file on or before July 30, 2010, a duplicate copy of the electronically filed attachments to their bill of costs, with the financial information redacted.

IT IS FURTHER ORDERED that the Motion for Accommodation [Doc. # 436], Motion In Limine [Doc. # 437], and Motion for Protective Order [Doc. # 441] are DENIED as abandoned.

IT IS FURTHER ORDERED that a one day evidentiary hearing on the issues of (1) whether the plaintiff fabricated documents submitted to the Tenth Circuit Court of Appeals on appeal; (2) whether the fabrication was intentional; and, if both questions are answered affirmatively, (3) the calculation of a reasonable award of attorney's fees for the appeal,¹ is set for **November 18, 2010, at 9:00 a.m.**, in Courtroom 401, 4th floor, Alfred A. Arraj United States Courthouse, 901 19th Street, Denver, Colorado (the "Hearing on Remand").

IT IS FURTHER ORDERED that on or before **July 30, 2010**, the parties shall submit status reports addressing (1) what limited discovery, if any, they require to prepare for the Hearing on Remand and (2) the method they propose for the presentation of their evidence at the

¹In its Order [Doc. # 401, filed 6/11/2010], the circuit court remanded the case with directions that this court hold an evidentiary hearing on the issues indicated.

Hearing on Remand.

IT IS FURTHER ORDERED that a status conference to address the procedures to be applied at the Hearing on Remand is set for **August 5, 2010, at 10:00 a.m.**, in Courtroom 401, 4th floor, Alfred A. Arraj United States Courthouse, 901 19th Street, Denver, Colorado. Ms. Garcia and counsel for the defendants must appear at the status conference in person.

IT IS FURTHER ORDERED that Ms. Garcia's failure to comply with the requirements of this order or failure to appear at future hearings may result in the imposition of sanctions against her.

Dated July 21, 2010.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge