

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

By an Order [Doc. # 466] dated July 21, 2010, I required two things. First, I required that on or before July 30, 2010, each side was to submit a status report addressing the discovery, if any, they require to prepare for the Hearing on Remand, and the manner of presentation of evidence at the Hearing on Remand. Second, I ordered the plaintiff, who is proceeding *pro se*, and counsel for the defendants to appear in person today at a status conference. The defendants complied with both requirements. The plaintiff complied with neither.

This is not the first time the plaintiff has failed to comply with one of my orders. On July 21, 2010, the plaintiff failed to appear for a hearing on three motions which she had filed. As a result of that failure, I cautioned the plaintiff that her failure to comply with my July 21 Order or her failure to appear at future hearings could result in the imposition of sanctions. Order [Doc. # 466] at p. 3.

As indicated in my July 21 Order, I will consider imposing sanctions against the plaintiff for her failure to comply and her failure to appear at the status conference this morning. The defendants may have to and including **August 13, 2010**, within which to submit any proposal they may have concerning the appropriateness of a sanction.

IT IS ORDERED that the following discovery schedule and limitations are established in connection with the Hearing on Remand:¹

(1) Expert Disclosures:

- (a) The plaintiff shall designate all expert witnesses, including any witnesses who will provide medical testimony, and provide defense counsel with all information specified in Fed. R. Civ. P. 26(a)(2) on or before **August 13, 2010**; and
- (b) The defendants shall designate all experts witnesses, including any witnesses who will provide medical testimony, and provide plaintiff with all information specified in Fed. R. Civ. P. 26(a)(2) on or before **September 13, 2010**.

(2) Depositions: Each side may depose any witness designated in accordance with Paragraph 1 of this Order. No deposition shall exceed three hours, absent leave of court. Depositions to preserve testimony will be permitted with leave of court only. All depositions shall be completed on or before **November 1, 2010**.

(3) Written Discovery: On or before **August 13, 2010**, the plaintiff shall produce to the defendants the following documents:

- (a) The DVD created by the University of Denver and containing e-mails sent or received by the plaintiff using her e-mail account at the University of Denver, consistent with my Order [Doc. # 278, filed

¹The hearing on remand 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. Order [Doc. # 466] at p. 2.

11/13/2007] at p. 15; and

- (b) The claims file folders and all documents contained therein from which the plaintiff claims to have located the December 2003 and May 2004 authorizations at issue here.

(4) Exchange of Witness Lists and Exhibits: On or before **October 27, 2010**, the parties shall exchange and file final witness lists identifying each witness the party will call at the Hearing on Remand and summarizing the expected testimony.

Also on or before **October 27, 2010**, the parties shall exchange copies of all exhibits to be offered into evidence at the Hearing on Remand and shall deliver to the court the original and two copies of each exhibit. The exhibits shall be contained in three ring binders, with tabbed dividers separating each exhibit. The plaintiff's exhibits shall be designated as P-1, P-2, etc., and the defendants' exhibits shall be designated as D-1, D-2, etc. Every page of every exhibit shall be Bates numbered for ease of reference.

Dated August 5, 2010.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge