

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Chief Judge Wiley Y. Daniel

Civil Action No. 08-cv-00540-WYD-BNB

JONATHAN AIN,

Plaintiff,

v.

UNUM LIFE INSURANCE COMPANY OF AMERICA,

Defendant.

ORDER

THIS MATTER came before the Court for a Final Trial Preparation Conference on Tuesday, December 22, 2009. After carefully reviewing the pleadings and considering the arguments presented by both parties at the hearing, I order the following for the reasons stated on the record:

IT IS ORDERED that the parties shall meet and confer and file the following materials not later than **Monday, January 4, 2010**: (1) revised jury instructions; (2) an agreed upon joint, neutral statement of the case to be read during jury selection; (3) amended exhibit lists; and (4) a joint statement indicating the prospects of settlement. It is

FURTHER ORDERED that each side will have 45 minutes to complete its opening statement to the jury. It is

FURTHER ORDERED that Unum's Motion in Limine and Supporting Brief to Exclude Plaintiff's Exhibits 115 through 122 (docket #128) is **DEFERRED UNTIL**

TRIAL. The Plaintiff shall not make any mention of the information contained in Thomas R. Watjen's introductory letters within Unum's annual reports in opening statements. Plaintiff is also ordered to pare down the exhibits to the most relevant evidence. I will hear evidence regarding the admission of these exhibits outside the presence of the jury and will make a final decision as to their admissibility during the trial. It is

FURTHER ORDERED that Unum's Motion in Limine and Supporting Brief to Exclude Evidence Pertaining to Detective Biff Lagan, the Colorado Division of Insurance, and the Florida Division of Financial Services, Including Plaintiff's Exhibits 79, 80, 82, 84, 85, 86, 88, 89, 90, 105, 106, and 107 (docket #129) is **DEFERRED UNTIL TRIAL.** The Plaintiff shall not make any mention of Detective Biff Lagan's conduct in opening statements. I will make a final decision as to the admissibility of this evidence during the trial. It is

FURTHER ORDERED that Unum's Motion in Limine and Supporting Brief to Exclude Plaintiff's Exhibits 25, 27, 104, 123-133 (docket #134), filed November 19, 2009 is **GRANTED IN PART AND DEFERRED IN PART UNTIL TRIAL.** The motion is granted to the extent that the exhibits containing the United States District Court for the District of Nevada's findings of fact and conclusions of law in the *Merrick* case are excluded. The Plaintiff shall not make any mention of the *Merrick* litigation in opening statements. If requested by Plaintiff, I will entertain brief testimony by Plaintiff's expert witness, Ms. Fuller, outside the presence of the jury and make a final decision as to the admissibility of this evidence during the trial. It is

FURTHER ORDERED that the parties shall comply with all other deadlines and directives mandated by me at the Final Trial Preparation Conference.

Dated: December 22, 2009

BY THE COURT:

s/ Wiley Y. Daniel _____
Wiley Y. Daniel
Chief United States District Judge