

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior District Judge Richard P. Matsch

Civil Action No. 09-cv-02703-RPM

TINA GARCIA,

Plaintiff,

v.

BERKSHIRE LIFE INSURANCE COMPANY OF AMERICA and
THE GUARDIAN LIFE INSURANCE COMPANY OF AMERICA,

Defendants.

ORDER FOR CLARIFICATION

This civil action was initiated by a complaint filed in the District Court, City and County of Denver, Colorado, and a complaint for preliminary and permanent injunctive relief was filed for the plaintiff by her attorneys Jon Hertzog and Fred L. Chavez. The case was removed to this court by the defendants' notice of removal, filed November 17, 2009. On November 20, 2009, a motion to withdraw as counsel for plaintiff was filed by Fred L. Chavez. On November 25, 2009, Jon Hertzog filed a motion to remand. The motion to withdraw by Fred L. Chavez was granted on November 30, 2009. On December 2, 2009, Tina Garcia, *pro se*, filed a notice of voluntary dismissal, motion to dismiss as moot, apparently seeking to dismiss this action under Fed.R.Civ. P. 41(a)(1)(A)(i). Because the plaintiff is in this court represented by Mr. Hertzog, the Court is unable to dismiss the case pursuant to the *pro se* notice of dismissal. It is therefore

ORDERED that Jon Hertzog, counsel of record for the plaintiff, shall file with the court and serve on opposing counsel a clarification of the plaintiff's position in this case and with respect to the motion for remand which he filed. The filing must be made on or before January 25, 2010.

DATED: January 13th, 2010

BY THE COURT:

s/Richard P. Matsch

Richard P. Matsch, Senior Judge