

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

Civil Action No. 13-cv-03302-WYD-MJW

MICHAEL D. WALDEN,

Plaintiff,

v.

METROPOLITAN LIFE INSURANCE COMPANY OF AMERICA, INC., a New York
corporation transacting business in Colorado, a/k/a MetLife, Inc.;

Defendant.

ORDER OF DISMISSAL

This matter is before the Court in connection with the Order to Show Cause issued August 28, 2015 (ECF No. 62). As noted in that Order, this is an ERISA case. The deadline for filing the opening brief was May 15, 2015, with deadlines in June and July for the response and reply. On April 7, 2015, Defendant filed a Statement Noting Death, noting the death of both the named Plaintiff and his attorney of record, Benjamin Silva. The Statement indicated that defense counsel had been communicating with attorney Jeff Winslow on behalf of the Plaintiff, but that Mr. Winslow had not entered an appearance or taken any action in this case.

Based on the foregoing, the Order to Show Cause found that the case is not currently being prosecuted on behalf of the Plaintiff, and that dismissal of the case may be appropriate. Plaintiff's legal representative was directed to show cause why this case should not be dismissed for failure to prosecute. Defendant was directed to serve a copy

of this Order on Mr. Winslow and any other known representative of the Plaintiff to ensure that notice on behalf of Plaintiff is received. The Order to Show Cause specifically stated that if no response to the Order was received by a representative of Plaintiff by September 25, 2015, the case would be dismissed without prejudice without further notice.

On September 1, 2015, Defendant filed a Certificate of Compliance indicating that it had provided a copy of the Order to Show Cause to attorney Jeff Winslow. No response was filed by Mr. Winslow or anyone else on behalf of Plaintiff. Accordingly, I find that this case must be dismissed without prejudice for failure to prosecute. It is therefore

ORDERED that this case is **DISMISSED WITHOUT PREJUDICE.**

Dated: December 21, 2015

BY THE COURT:

s/ Wiley Y. Daniel
Wiley Y. Daniel
Senior United States District Judge