

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

THOMAS P. KELLY, JR.,
Plaintiff,

v.

Civil Action No. 09-2478 (KSH)

RELIANCE STANDARD LIFE INSURANCE
COMPANY, and
THE PENN MUTUAL LIFE INSURANCE
COMPANY,

Defendants.

OPINION AND ORDER

Katharine S. Hayden, U.S.D.J.

This matter having come before the Court by way of letters dated March 24, 2011 [D.E. 91, 92, 93 and 94], regarding the request to extend deadlines associated with the plaintiff's motion to reopen and appeal of Reliance's decision concerning benefits [D.E. 88];
and the Court having reviewed the record of proceedings;

and the December 14, 2010 Order [D.E. 87] reflecting that this case was remanded to Reliance for further review of the plaintiff's claim and was administratively closed;

and the December 14, 2010 Order [D.E. 87] reflecting that the Court retained jurisdiction over this case for the purpose of addressing any appeal of Reliance's decision, and by its terms, directed the parties to file an appeal of the final decision within fourteen days of the final decision;

and thus the December 14, 2010 Order reflecting that the case would be reopened for the limited purpose of allowing a party to file a timely appeal;¹

and it appearing that the plaintiff filed an appeal by way of a motion to reopen on March 7, 2011 [D.E. 88], which was amended on March 8, 2011 [D.E. 90];

and pursuant to L. Civ. R. 7.1, the deadline to file a response was March 21, 2011;

and the defendant Reliance having made an untimely request to seek an extension to April 4, 2011, which would be the automatic deadline to which it would have been entitled to file its opposition if it had timely sought the automatic extension pursuant to L. Civ. R. 7.1;

and although the plaintiff asserts that delay will cause "irreparable harm" in the form of unrecoverable consequential damages, the inability to recover such damages based upon the federal law governing his claim is not a sufficient to reason to deny a limited extension;²

and the Court determining that allowing the defendant to file its response by the deadline that would apply under the automatic extension will not unduly prejudice the plaintiff or delay the proceedings;

IT IS therefore on this 30th day of March, 2011

¹ Because this case is being reopened for the limited purpose of addressing the appeal, no further applications will be entertained, including any request to amend the pleadings to add claims or parties. See D.E. 91 at 6.

² The Court has already taken steps to ameliorate delay in this case by absolving the plaintiff of his obligation to exhaust all administrative appeals of Reliance's decision. [D.E. 87 at ¶ 2.]

ORDERED that the Clerk shall reactivate this case for the purposes of addressing the appeal permitted by the Court's order of December 14, 2010 [D.E. 87]; and

IT IS FURTHER ORDERED that the defendants' response to the appeal shall be filed no later than **April 4, 2011**. Any reply shall be filed no later than **April 11, 2011**. The Court will notify the parties if oral argument will be required.

/s/ Katharine S. Hayden

Katharine S. Hayden, U.S.D.J.