

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
NO. 5:11-CV-00029-FL

METROPOLITAN LIFE INSURANCE )  
COMPANY, )  
 )  
Plaintiff, )  
v. )  
 )  
JOHN GUERRIERO, et al. )  
 )  
Defendants. )  
\_\_\_\_\_ )

**ORDER**

This Cause comes before the Court upon pro se defendant Kevin Gallagher’s motions to continue (DE-35, DE-36) the status conference currently scheduled before the undersigned at 9:00 a.m. on Monday, September 12, 2011 in the Sixth Floor Courtroom of the Federal Courthouse at 310 New Bern Avenue, Raleigh, North Carolina. (DE-34). Defendant John Guerriero opposes the motion to continue. (DE-37). The motions to continue were referred to the undersigned September 8, 2011.

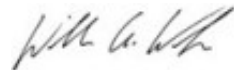
As grounds for the instant motion, Gallagher states that he began physical therapy on September 7, 2011 as part of his medical regimen following total knee replacement surgery in July 2011. According to the medical records submitted in support of the motion, Gallagher will attend physical therapy three times per week for eight weeks. (DE-36-2). Gallagher requests that the status conference be postponed until “at least Nov[ember] 2011” because “it’s imperative that [he] stick to a tough [physical therapy] regimen in order to restore mobility and strength to the left knee.” (DE-36, p.1).

Guerriero requests that the motion to continue be denied. He notes that the status

conference has already been continued at least twice. (DE-28, DE-34). In addition, he states that Gallagher visited the office of Guerriero's counsel to hand-deliver the motion to continue. At that time, Gallagher "stood and spoke with [Guerriero's counsel] for approximately 10-15 minutes without difficulty." (DE-37, p.2).

The undersigned concludes that the instant motion is grounded in convenience rather than good cause. The medical evidence indicates that Gallagher attends physical therapy three days per week, presumably for no more than one hour each appointment. There is no evidence that he is immobile, house-bound, or otherwise physically unable to attend the status conference. Nor is there any evidence to suggest that attending the status conference on Monday, September 12, 2011 would interfere with his physical therapy regimen. Defendant Gallagher's motions to continue the status conference (DE-35, DE-36) are therefore DENIED. In accordance with the Court's previous orders, the status conference will be conducted Monday, September 12, 2011 at 9:00 a.m. in the Sixth Floor Courtroom of the Terry Sanford Federal Building, 310 New Bern Avenue, Raleigh, North Carolina.

DONE AND ORDERED in Chambers at Raleigh, North Carolina on Friday, September 9, 2011.



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WILLIAM A. WEBB  
UNITED STATES MAGISTRATE JUDGE