

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JACQUELINE HEJSAK,

Plaintiff,

ORDER

v.

03-C-629-C

GREAT-WEST LIFE & ANNUITY
INSURANCE COMPANY,

Defendant.

On May 24, 2004, this court held a telephonic status conference to discuss the parties' two proposed stipulations. Plaintiff was represented by Attorney Howard J. Eglash. Defendant was represented by Attorney J. Manuel Raneda.

The hearing was prompted by the parties' joint submission of a stipulation to extend the summary judgment to the end of June, and a stipulation to bifurcate this case into two separate trials to two separate juries, the first determining liability, the second, if necessary, determining bad faith by the insurer. The court does not intend to accept either stipulation as offered but will give the parties half a loaf on each.

First, there is no time in this tight schedule for a one-month extension of the summary judgment deadline. I will, however, extend the deadline to June 11, 2004. No further extensions are possible. Responses are due 21 days later, replies, 10 days thereafter. Both

sides are contemplating summary judgment motions in this case; as I indicated at the hearing, however, it is not always necessary for both sides to file motions if the respondent is confident that he can prevail under Rule 56 simply by responding to the opposition's motion. If, however, both sides have different facts or different theories in mind, then it might be more prudent for each side to file its own motion. I leave that to the parties to sort out.

Next, the court declines to bifurcate this case into two separate trials to two separate juries. Although state law militates strongly toward this procedure, this federal court views it as inefficient for jurors, the court and the parties. This inefficiency is not sufficiently offset by the potential savings in discovery costs suggested by defendant. The court will, however, bifurcate the bad faith claim from the liability claim and try it sequentially to the same jury. Obviously, however, the parties will have to undertake and complete their bad faith discovery along with their liability and damages discovery before the close of discovery already set in this case. At the hearing the defendant noted its objection to proceeding in this fashion.

The parties had no other matters to bring to the court's attention.

Entered this 24th day of May, 2004.

BY THE COURT:

STEPHEN L. CROCKER
Magistrate Judge