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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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UNUM GROUP,

Plaintiff,

v.

BRIAN T. BAKER,

Defendant.

**ORDER**

Case No. 2:17-cv-01210-DBP

Magistrate Judge Dustin B. Pead

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Plaintiff Unum Group brought this action seeking equitable relief to redress alleged violations under the terms of an employer-sponsored LTD plan (“Plan”) that Defendant Brian T. Baker, pro se, participated in.<sup>1</sup> *See* 29 U.S.C. § 1132(a)(3). On September 5, 2019, the court entered summary judgment in favor of Plaintiff concluding that the Plan expressly permitted “Unum to subtract other sources of income, such as Social Security Disability payments and third-party settlement payments, from Mr. Baker’s monthly LTD benefit.” (ECF No. 30 p. 5.) The court did not enter an amount that Unum was entitled to at that time because of Mr. Baker’s claim that he was taxed on certain sums he received. The court received documentation concerning the amounts owing and held a hearing on Mr. Baker’s offset claims November 14, 2019. Mr. Baker was personally present at the hearing as well as counsel for Plaintiff.

At the November hearing, the court heard from the parties regarding the amount owing. After hearing from all parties, the court provided Mr. Baker additional time to provide any evidence that contradicts the amount owing as set forth in Plaintiff’s Errata filed on that

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<sup>1</sup> The parties consented to the jurisdiction of the Magistrate Judge pursuant to 28 U.S.C. 636(c). (ECF No. 11.)

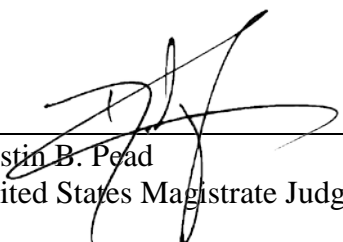
same date. (ECF No. 34.) Mr. Baker was directed to post mark any response, including bank statements or other documentation that supported his claim of any offset, by November 27th. Further, the court informed Mr. Baker that if it did not receive a response by December 4th, the court would proceed to issue a ruling. Because Mr. Baker is proceeding pro se the court afforded him additional time past December 4th to comply. To date, the court has not received any response from Mr. Baker. The court, therefore, enters the following:

The court has carefully reviewed Plaintiff's Errata regarding amount owing. Unum recalculated the amount owing through termination of Mr. Baker's benefits under the Plan, which ended on December 21, 2018. Included in Plaintiff's documentation is a table of calculations that sets forth the dates, amounts paid and the total overpayment Plaintiff is owed under the Plan. The total amount overpaid to Mr. Baker is \$35,170.87. The court finds this amount supported by the record.

Accordingly, it is HEREBY ORDERED that Plaintiff is to be paid the amount of \$35,170.87, out of Defendant's third-party settlement funds. Judgment therefore is hereby entered in the amount of \$35,170.87 against Defendant.

IT IS SO ORDERED.

DATED this 13 December 2019.

  
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Dustin B. Pead  
United States Magistrate Judge