



1 jurisdiction, 28 U.S.C. § 1331, because plaintiff has brought a  
2 claim under the Employee Retirement Income Security Act (ERISA),  
3 29 U.S.C. §§ 1001-1191c. Venue is undisputed and is hereby found  
4 to be proper.

5 II. Trial

6 The parties agree that the matter will be heard on the  
7 administrative record and tried before the court without a jury  
8 or witnesses. The trial will be conducted in accordance with the  
9 procedures outlined in Kearney v. Standard Ins. Co., 175 F.3d  
10 1084 (9th Cir. 1999).

11 III. Findings and Conclusions

12 No later than ten court days before trial, counsel for  
13 plaintiff shall lodge and serve the Findings of Fact and  
14 Conclusions of Law that plaintiff proposes be entered at the  
15 conclusion of the trial pursuant to Federal Rule of Civil  
16 Procedure 52 and Local Rule 290. No later than five court days  
17 before trial, counsel for defendant shall lodge and serve the  
18 Findings of Fact and Conclusions of Law that defendant proposes  
19 be entered.

20 IV. Trial Briefs

21 No later than December 31, 2010, the parties shall file  
22 their opening trial briefs and defendant shall also lodge the  
23 administrative record with the court. Both parties shall file  
24 any opposition briefs no later than January 14, 2010 and may file  
25 any reply briefs no later than January 21, 2010.

26 V. Remaining Claim

27 The remaining claim for trial is plaintiff's claim for  
28 denial of his benefits under ERISA, 29 U.S.C. §§ 1001-1191c.

1 Plaintiff also seeks attorney's fees, which can be resolved by  
2 motion following trial.

3 VI. Further Discovery and Motions

4 No further motions shall be brought before trial except  
5 upon order of the court and upon a showing of manifest injustice.  
6 Fed. R. Civ. P. 16(e). No further discovery will be permitted  
7 except by the express stipulation of all parties or upon order of  
8 the court and upon a showing of manifest injustice. Id.

9 VII. Date and Length of Trial

10 The trial is set for January 31, 2011, at 2:00 p.m. in  
11 Courtroom No. 5. The court estimates that the trial will last  
12 approximately two hours.

13 VIII. Settlement Conference

14 A Settlement Conference is set before Magistrate Judge  
15 Dale A. Drodz, at 10:00 a.m., on November 22, 2010.

16 Each party is ordered to have a principal with full  
17 settlement authority present at the conference or be fully  
18 authorized to settle the matter on any terms. No later than  
19 seven days before the date of the Settlement Conference, counsel  
20 for each party shall submit a confidential Settlement Conference  
21 Statement to the settlement judge. Such statements shall not be  
22 filed, but shall be delivered to the chambers of the settlement  
23 judge, in hard copy, and emailed to dadorders@caed.uscourts.gov.

24 IX. Objections to Pretrial Order

25 Any objections or suggested modifications to this Pretrial  
26 Order shall be filed and served within five court days from the  
27 file-stamped date of this Order. All references herein to the date of  
28 this Order shall refer to the date the tentative order is filed and

1 not to the date any amended order is filed. If no objections or  
2 modifications are made, this Order will become final without further  
3 order of the court and shall control the subsequent course of the  
4 action, pursuant to Rule 16(e) of the Federal Rules of Civil  
5 Procedure.

6 DATED: October 19, 2010

7  
8 

9 WILLIAM B. SHUBB  
10 UNITED STATES DISTRICT JUDGE  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28