

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DONALD GRACEY,

No C 07-3853 VRW

Plaintiff,

ORDER

v

KAISER PERMANENTE FLEXIBLE
BENEFITS PLAN,

Defendant.

_____ /

Plaintiff Donald Gracey has filed a motion for judgment pursuant to FRCP 52. Doc #46. The court seeks to refer this ERISA matter to a United States magistrate judge for proposed findings of fact and recommendations for the disposition of the motion pursuant to 28 USC § 636(b)(1)(B). After review of the magistrate's proposed findings of fact and recommendations, along with the parties' objections, if any, to the magistrate's proposal, the court will enter the dispositive order. It appears to the court that the parties' consent to this referral is not required pursuant

1 to § 636(b)(1)(A). Nevertheless, because no clear authority
2 addresses whether the court may refer a FRCP 52 motion to a
3 magistrate, the court seeks to obtain the parties' consent for the
4 referral.

5 Accordingly, the parties are DIRECTED to inform the court
6 in writing, not later than October 9, 2009, whether they consent to
7 the above-described referral to a magistrate. The hearing
8 scheduled for October 13, 2009 is VACATED pending receipt of the
9 parties' response.

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12 IT IS SO ORDERED.

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16 VAUGHN R WALKER
17 United States District Chief Judge
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