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

KENNETH ARNOLD,  
Plaintiff,

No. C 12-02115 WHA

v.

BLUE SHIELD OF CALIFORNIA,  
Defendant.

**ORDER TO SHOW CAUSE  
REGARDING REFERRAL OR  
SANCTION OF ADAM PINES**

In a November 15 submission, defendant’s counsel Adam Pines represented to the Court that “the practice [in ERISA disputes] of soliciting input from third-party reviewers that are identified by training and qualifications, but not by name, is . . . regularly approved by the courts” (Dkt. No. 23). The Court has reviewed the case authority cited by defendant’s counsel for this proposition and concludes these cases hold the opposite. To wit: that the practice of failing to identify third-party reviewers by name violates ERISA. *Simonia v. Glendale Nissan/Infiniti Disability Plan*, 378 Fed. App’x 725, 727 (9th Cir. 2010) (assuming without deciding that the failure to identify a medical reviewer violates ERISA); *Lukas v. United Behavioral Health*, No. 09-2423, 2011 WL 1459157, at \*17 (E.D. Cal. Apr. 15, 2011) (“The Plan Administrator did not provide the name of the physician to plaintiffs. This resulted in a violation of ERISA procedures.”); *Gaines v. Guardian Life Ins. Co. of Am.*, No. 09-1762, 2010 WL 1759579, at \*7 (D. Md. Apr. 30, 2010) (ERISA’s plain language compels an administrator to identify a medical consultant upon plaintiff’s request).

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It appears that defendant’s counsel Adam Pines has violated California Rule of Professional Conduct 5-200, which states that a member of the bar “[s]hall not seek to mislead the judge, judicial officer, or jury by an artifice or false statement of fact or law.” The Court hereby issues an **ORDER TO SHOW CAUSE** why a referral or other sanction should not be imposed upon Adam Pines for this conduct. Adam Pines shall respond to this order by **DECEMBER 6 AT NOON.**

**IT IS SO ORDERED.**

Dated: November 26, 2012.



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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE