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UNITED STATES DISTRICT COURT

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NORTHERN DISTRICT OF CALIFORNIA

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7   NANCY MAHAN,

              Plaintiff,

8

9   v.

10   UNUM LIFE INSURANCE COMPANY OF
      AMERICA,

11   Defendant.

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Case No. 13-cv-04803-VC

**ORDER DENYING CROSS-MOTIONS
FOR SUMMARY JUDGMENT;
DENYING MOTION TO STRIKE;
DENYING MOTION FOR JUDICIAL
NOTICE**

Re: Docket Nos. 64, 66, 73, 81

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14   Because the record reveals a risk that UNUM's conflict of interest adversely affected its

15   treatment of Mahan's claim, which would impact the degree of scrutiny applied and could

16   potentially affect the outcome, Mahan is permitted to conduct limited discovery on that issue.

17   This discovery cutoff is December 18, 2014. The cross-motions for summary judgment are denied

18   without prejudice to refiling after conflict discovery has concluded. The motion to strike and the

19   motion for judicial notice are denied as moot.

20   By September 25, 2014, the parties shall file a stipulation that: (i) either requests

21   assignment to a specific magistrate judge for a settlement conference or requests that the case be

22   assigned randomly to a magistrate for that purpose; and (ii) sets forth a briefing schedule for cross-

23   motions for summary judgment following the completion of conflict discovery. In their summary

24   judgment papers, the parties should discuss the propriety of UNUM's suggestion, made at the

25   hearing, that the question whether Mahan's claim for "buy up" coverage based on the ankle injury

26   should be remanded to UNUM, and if so, whether this Court should retain jurisdiction over the

27   case while it is on remand. If the parties determine that the conflict discovery cutoff should be

28   extended in light of the date on which their settlement conference with a magistrate judge is

scheduled, they may submit to this Court a stipulated request for an extension.

IT IS SO ORDERED.

Dated: September 19, 2014

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VINCE CHHABRIA
United States District Judge

United States District Court
Northern District of California

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