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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL TODD JENKS,
Plaintiff,
v.
DLA PIPER (US) LLP,
Defendant.

Case No. 13-cv-05381-VC

ORDER

As explained in the Court's order granting the motion to dismiss the original petition, to successfully plead subject matter jurisdiction, any amended petition must allege that the arbitrator "recognized" an applicable ERISA rule but then "ignored" that rule. At the hearing, counsel for Jenks should be prepared to answer the following questions with regard to each ERISA error allegedly committed by the arbitrator:

Which ERISA rule was the arbitrator required to apply?

Where is that rule identified in the amended petition?

Where does the amended petition allege that the arbitrator "recognized" this rule?

Where does the amended petition allege that the arbitrator "ignored" this rule despite recognizing it?

The parties also should be prepared to discuss whether the petition should be dismissed under the *Colorado River* doctrine. In particular, does the absence of a ruling by the state court on the ERISA questions presented by the amended petition in this case, combined with the fact that the amended petition in this case focuses primarily on the ERISA questions, militate against dismissal under *Colorado River*?

IT IS SO ORDERED.

Dated: June 17, 2014



VINCE CHHABRIA
United States District Judge