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4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA

6
7 DAVE NAGY,
8 Plaintiff,

9 v.

10 GROUP LONG TERM DISABILITY PLAN
11 FOR EMPLOYEES OF ORACLE
12 AMERICA, INC., et al.,
13 Defendants.

Case No. 14-cv-00038-HSG

**ORDER REGARDING SOCIAL
SECURITY ADMINISTRATION
DETERMINATION**

Re: Dkt. No. 66

13 The Court conducted a bench trial in this action on April 13, 2015. At the very end of that
14 proceeding, counsel for Plaintiff Dave Nagy (“Nagy”) alerted the Court to the existence of a
15 January 28, 2015 decision by the Social Security Administration (“SSA”) finding him totally
16 disabled from any work as of February 8, 2012. Nagy now moves the Court for leave to submit
17 the SSA’s decision in support of his position he is unable to work in “Any Occupation” as defined
18 by the ERISA plan at issue in this case. See Dkt. No. 66 (“Mot.”). Defendants Group Long Term
19 Disability Plan for Employees of Oracle America, Inc. and Hartford Life and Accident Insurance
20 Company (“Defendants”) oppose Nagy’s request, arguing that the SSA decision may not be
21 considered as extrinsic evidence under the standard articulated by the Ninth Circuit in *Opeta v.*
22 *Northwest Airlines Pension Plan for Contract Employees*, 484 F.3d 1211 (9th Cir. 2007). See
23 Dkt. No. 68 (“Opp.”).

24 When a district court reviews an administrator’s denial of benefits under an ERISA plan
25 under the de novo standard of review, “extrinsic evidence [may] be considered only under certain
26 limited circumstances.” *Id.* at 1217 (citation omitted). “[A] district court should not take
27 additional evidence merely because someone at a later time comes up with new evidence” *Id.*
28 (citation omitted). “In most cases, only the evidence that was before the plan administrator at the

1 time of determination should be considered.” Id. (citation and quotation marks omitted). The
2 district court should “exercise its discretion to consider evidence outside the administrator record
3 only when circumstances clearly establish that additional evidence is necessary to conduct an
4 adequate de novo review of the benefit decision.” Id. (citation and quotation marks omitted).

5 The Ninth Circuit has adopted the Fourth Circuit’s non-exhaustive list of exceptional
6 circumstances where the introduction of evidence beyond the administrative record could be
7 considered necessary:


8 claims that require consideration of complex medical questions or
9 issues regarding the credibility of medical experts; the availability of
10 very limited administrative review procedures with little or no
11 evidentiary record; the necessity of evidence regarding interpretation
12 of the terms of the plan rather than specific historical facts; instances
13 where the payor and the administrator are the same entity and the
14 court is concerned about impartiality; claims which would have been
15 insurance contract claims prior to ERISA; and circumstances in
16 which there is additional evidence that the claimant could not have
17 presented in the administrative process.

18 Id. (citation omitted). However, the fact that a case implicates even several of these circumstances
19 does not automatically justify the admission of extrinsic evidence. The Court must still find that
20 the presence of these exception circumstances renders consideration of the particular extrinsic
21 evidence sought to be admitted necessary to conduct de novo review of the benefit decision. Id.

22 The Court agrees with Nagy that this case involves several of the exceptional
23 circumstances listed above. However, Nagy has made no argument concerning why admission of
24 the SSA decision he seeks to introduce is necessary to the adequate de novo review of the benefit
25 decision. Accordingly, Nagy is **ORDERED** to lodge the SSA decision with the Court no later
26 than **June 5, 2015**. Nagy and the Defendants may file 5-page briefs discussing the import of that
27 decision no later than **June 19, 2015**, as well a 5-page reply brief no later than **June 26, 2015**.
28 The Court will consider the admissibility of the SSA decision after briefing is complete.

IT IS SO ORDERED.

Dated: 6/2/2015


HAYWOOD S. GILLIAM, JR.
United States District Judge