

1 Rebecca Grey, Bar No. 194940
 2 grey@greylaw-sf.com
 3 P. Lauren Ruby, Bar No. 293105
 4 lauren@greylaw-sf.com
 5 THE GREY LAW FIRM, P.C.
 6 235 Montgomery Street, Suite 1101
 7 San Francisco, CA 94104
 8 Telephone: 415.262.9926
 9 Facsimile: 415.262.9981

10 Attorneys for Plaintiff
 11 ROBERT GLANTZ

12 Anna M. Martin, Bar No. 154279
 13 amartin@rimacmartin.com
 14 RIMAC MARTIN, P.C.
 15 1051 Divisadero Street
 16 San Francisco, CA 94115
 17 Telephone: 415.561.8440
 18 Facsimile: 415.561.8430

19 Attorneys for Defendants
 20 LIFE INSURANCE COMPANY OF NORTH AMERICA;
 21 OMNICOM BENEFITS INC.; and, the OMNICOM GROUP HEALTH AND WELFARE
 22 BENEFIT PLAN (improperly named herein as Omnicom Benefits Inc. Insurance Plan)

23 **UNITED STATES DISTRICT COURT**
 24 **NORTHERN DISTRICT OF CALIFORNIA**
 25 **SAN FRANCISCO**

26 ROBERT GLANTZ,
 27
 28 Plaintiff,
 v.

CIGNA LIFE INSURANCE COMPANY;
 LIFE INSURANCE COMPANY OF NORTH
 AMERICA; OMNICOM BENEFITS INC.;
 OMNICOM BENEFITS INC. INSURANCE
 PLAN,
 Defendants.

Case No. 3:15-cv-00211 WHO

**JOINT CASE MANAGEMENT
 CONFERENCE STATEMENT;
 ORDER**

Complaint Filed: January 14, 2015

Date: April 7, 2015
 Time: 2:00 P.M.
 Courtroom: 2, 17th Floor
 Judge: Hon. William H. Orrick

1 Plaintiff Robert Glantz (“Plaintiff”) and defendant Life Insurance Company of North
2 America (“LINA”); Omnicom Group Health and Welfare Benefits Plan (together with the Group
3 Insurance Policy Number LK-980036, the “Plan”); and Omnicom Benefits Inc. (“Omnicom”)
4 (collectively “Defendants”), jointly submit this JOINT CASE MANAGEMENT STATEMENT
5 and PROPOSED ORDER, pursuant to the Standing Order for All Judges of the Northern District
6 of California dated July 1, 2011 and Civil Local Rule 16-9.

7 **1. JURISDICTION & SERVICE**

8 Plaintiff and Defendants (collectively “the Parties”) agree that this Court’s jurisdiction is
9 proper pursuant to 28 U.S.C. §1331 and 29 U.S.C. §1132, as this matter is governed by the
10 Employee Retirement Income Security Act of 1974, 29 U.S.C. §1001 et seq., as amended
11 (“ERISA”). The Parties agree that venue is proper in this Court. Defendants contend that CIGNA
12 Life Insurance Company does not exist and has not been served. All other Defendants have
13 appeared in this matter.

14 **2. FACTS**

15 Plaintiff was Vice President at Access Communications, from 1992 through 2012, and was
16 a participant in the Plan, which provided, *inter alia*, long term disability (“LTD”) benefits to
17 eligible employees. The Plan is an employee welfare benefit plan governed by ERISA. The LTD
18 portion of the Plan is insured by a policy of insurance issued by LINA to Omnicom, and LINA is
19 the claims administrator and underwriter. Omnicom is the named Plan Administrator according to
20 Plan documents. However, Plaintiff contends that LINA or CIGNA held itself out to Plaintiff as
21 the Plan Administrator.

22 In December 2012, Plaintiff filed a claim for long-term disability benefits claiming that he
23 suffered from conditions including severe rheumatoid arthritis, depression and chronic fatigue. On
24 April 26, 2013, LINA determined that Plaintiff was entitled to long-term disability benefits. From
25 March 2, 2013 through March 1, 2014, Plaintiff received LTD benefits from LINA. On December
26 18, 2013, LINA issued its initial decision denying further benefits to Plaintiff. On September 12,
27 2014, Plaintiff appealed LINA’s initial denial of further benefits. On November 12, 2014, LINA
28 denied Plaintiff’s appeal. Plaintiff has exhausted his administrative remedies and this action is now

1 ripe for judicial review. Plaintiff thus brings these claims for relief against Defendants, seeking
2 payment of benefits under the Plan or equitable remedies due to Defendants' purported breaches of
3 fiduciary duty, and sanctions for failure to provide documents.

4 **3. LEGAL ISSUES**

- 5 1. Whether there is a grant of discretion in the Plan;
- 6 2. If there is a grant of discretion in the Plan, whether that grant of discretion is valid in
7 light of Insurance Code Section 10110.6;
- 8 3. What is the applicable standard of review;
- 9 4. If the standard of review is abuse of discretion, what degree of discretion should the
10 Court give the decisions made by Defendants;
- 11 5. To what extent did a purported conflict of interest taint the decision-making process;
- 12 6. To what extent is Plaintiff entitled to discovery in this matter and what discovery is
13 appropriate;
- 14 7. What evidence outside of the administrative record is admissible;
- 15 8. Whether Plaintiff is entitled to statutory penalties;
- 16 9. Whether Plaintiff is entitled to equitable remedies due to Defendants' purported
17 breaches of fiduciary duties; and
- 18 10. Whether Plaintiff is entitled to benefits under the terms of the Plan.

19 **4. MOTIONS**

20 There are no pending motions. Depending on the discovery served by Plaintiff, there may
21 be discovery disputes that involve motion practice. Depending upon the Court's preference, the
22 Parties may resolve this matter in cross-motions for Judgment under FRCP 52.

23 **5. AMENDMENT OF PLEADINGS**

24 The Parties do not anticipate any further amendments to the pleadings.

25 **6. EVIDENCE PRESERVATION**

26 The Parties have taken the necessary steps to preserve the evidence pertinent to this matter.

27 **7. DISCLOSURES**

28 Plaintiff and Defendants will complete Rule 26 disclosures by April 7, 2015.

1 **8. DISCOVERY**

2 Plaintiff contends that the nature of discovery will depend on the standard of review
3 applicable to this case. If the standard of review is abuse of discretion, Plaintiff anticipates
4 pursuing discovery on the impact of the structural conflict of interest on the claim decision in this
5 action. If the standard of review is *de novo*, Plaintiff anticipates pursuing discovery into
6 information necessary to conduct an adequate *de novo* review that will enable the full exercise of
7 informed and independent judgment, including information regarding the bias and credibility of
8 Defendants’ medical reviewers, Defendants; review procedures, and the extent to which relevant
9 documents were omitted from the administrative record.

10 Defendants contend that such discovery is improper and unnecessary and is sought to
11 disturb the streamlined process of ERISA, among other things.

12 **9. CLASS ACTIONS**

13 Not applicable.

14 **10. RELATED CASES**

15 There are no related cases at this time.

16 **11. RELIEF**

17 Plaintiff seeks payment of past and future benefits pursuant to 29 U.S.C. §1132(a)(1)(B);
18 “appropriate equitable relief” pursuant to 29 U.S.C. §1109, 29 U.S.C. §1132(a)(2), 29 U.S.C.
19 §1132(a)(3) and *CIGNA v. Corp. v. Amara*, 131 S.Ct. 1866 (2011); civil penalties pursuant to 29
20 U.S.C. §1132(c)(1) and 29 C.F.R. 2575.502c-1; pre-judgment and post-judgment interest; costs;
21 and attorney fees.

22 **12. SETTLEMENT AND ADR**

23 The Parties have stipulated to Private Mediation with Jeff Krivis in San Francisco, which is
24 currently scheduled for May 15, 2015.

25 **13. CONSENT TO MAGISTRATE JUDGE FOR ALL PURPOSES**

26 YES X NO

27 **14. OTHER REFERENCES**

28 The Parties agree that this case is not suitable for reference to binding arbitration, a

1 special master, or the Judicial Panel on Multidistrict Litigation.

2 **15. NARROWING OF ISSUES**

3 The Parties request that any claim for attorneys' fees under 29 U.S.C. Section 1132(g)(1)
4 be deferred pending the Court's entry of judgment and determined by a separate motion
5 thereafter.

6 **16. EXPEDITED TRIAL PROCEDURE**

7 The Parties agree that this matter can be presented through cross motions for judgment
8 under FRCP 52 and with oral argument presented to the Court.

9 **17. SCHEDULING**

10 Proposed date for designation of experts: N/A

11 Scheduled date for private mediation: May 15, 2015

12 Proposed discovery cutoff date: October 22, 2015

13 Proposed date to file cross-motions for judgment: November 5, 2015

14 Proposed date to file oppositions: November 19, 2015

15 Proposed hearing date for Motions for Judgment: December 10, 2015

16 Proposed trial date: January 21, 2016 (if required)

17 **18. TRIAL**

18 This matter is an ERISA case that may be decided through cross-motions for judgment
19 pursuant to Rule 52 of the Fed. R. Civ. Proc. If the case is not resolved by dispositive motion,
20 the Parties anticipate that a bench trial could be completed in one-half of a day. Rebecca Grey
21 will try the case for Plaintiff. Anna Martin will try the case for Defendants.

22 **19. DISCLOSURE OF NON-PARTY INTERESTED ENTITIES OR PERSONS**

23 Plaintiff has no entities to disclose.

24 LINA makes the following disclosure: LINA is the insurer that issued the group disability
25 insurance policy at issue in this case. LINA is 100% owned by Connecticut General Corporation,
26 which is in turn 100% owned by CIGNA Holdings, Inc., which is 100% owned by Cigna
27 Corporation. Cigna Corporation is the only publicly traded company in the chain. None of the
28 companies have any control over the operations or decision-making of LINA or has a direct

1 interest in the outcome of the case.

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4 Dated: March 31, 2015

THE GREY LAW FIRM, P.C.

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/s/ Rebecca Grey
Rebecca Grey
Counsel for Plaintiff

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9 Dated: March 31, 2015

RIMAC MARTIN, P.C.

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/s/ Anna M. Martin
Anna M. Martin
Counsel for Defendants

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1 **CASE MANAGEMENT ORDER**

2 The above JOINT CASE MANAGEMENT STATEMENT and PROPOSED ORDER is
3 approved as the Case Management Order for this case and all parties shall comply with its
4 provisions, except that the hearing date on the crossmotions for summary judgment shall be
5 December 9, 2015 and the proposed bench trial date shall be January 19, 2016.

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8 **IT IS SO ORDERED.**

9 Dated: April 3, 2015

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12 HONORABLE WILLIAM H. ORRICK
13 UNITED STATES DISTRICT COURT JUDGE
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