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

KEITH DAVIS,
Plaintiff,
v.
COMBINED INSURANCE,
Defendant.

Case No. [17-cv-02655-MMC](#)

**ORDER GRANTING DEFENDANT'S
MOTION TO DISMISS; AFFORDING
LEAVE TO AMEND; VACATING
HEARING DATE**

Re: Dkt. No. 17

Before the Court is defendant Combined Insurance's motion, filed November 17, 2017, to dismiss plaintiff Keith Davis's First Amended Complaint, in which plaintiff alleges a single cause of action for breach of contract by reason of defendant's failure to pay benefits upon the death of plaintiff's son. Plaintiff has filed opposition, to which defendant has replied. The Court, having read and considered the papers filed in support of and in opposition to the motion, finds the insurance policy at issue does not afford death benefits.

Accordingly, defendant's motion to dismiss is hereby GRANTED, and, in light of plaintiff's assertion in his opposition that he purchased the policy in reliance on representations made by defendant's agent, plaintiff is hereby afforded leave to amend to plead, if he can do so, a claim based on such representations.

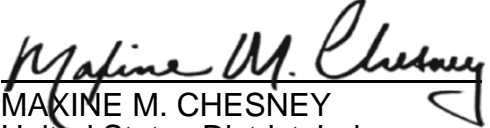
Plaintiff's Second Amended Complaint, if any, shall be filed no later than January 26, 2018.

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In light of the above, the hearing on defendant's motion to dismiss, scheduled for January 26, 2018, is hereby VACATED.

IT IS SO ORDERED.

Dated: January 10, 2018


MAXINE M. CHESNEY
United States District Judge