

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

MICHAEL FRANKS, an individual,

No. C 10-3880 CW

Plaintiff,

ORDER DENYING
WITHOUT PREJUDICE
DEFENDANTS' MOTION
FOR SUMMARY

v.

JUDGMENT (Docket
No. 39)

AETNA LIFE INSURANCE COMPANY; THE
SPRINT/UNITED MANAGEMENT COMPANY
LONG TERM DISABILITY PLAN; and
SPRINT/UNITED MANAGEMENT COMPANY,
in its capacity as Plan
Administrator,

Defendants.

_____ /

United States District Court
For the Northern District of California

For the reasons explained at the December 22, 2011 hearing,
Defendants' motion for summary judgment is denied without
prejudice, subject to refileing on or before January 23, 2012.

In advance of any further motion for summary judgment, the
parties shall do the following. Defendants shall provide
Plaintiff with a copy of the documents on which they rely in
charging an offset. Plaintiff shall inform Defendants of the
amount of social security benefits originally awarded to him and
provide a copy of the award letter, if possible, as well as the
basis for the award and any subsequent increases. If Plaintiff
has lost the original award letter, Plaintiff shall make a good
faith effort to secure documentation of the award from the Social
Security Administration, and Defendants shall use the avenues at
their disposal to secure the missing information from the SSA.
The parties shall share this information with opposing counsel, as
soon as they acquire it.

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Before Defendants file a second motion for summary judgment, they shall meet and confer with Plaintiff's counsel regarding the correct benefit payment for each month at issue. If the parties have not resolved the dispute, Defendants may file their second motion for summary judgment, addressing the offset issue. Any motions relating to attorneys' fees, costs and interest may be made at a later date.

IT IS SO ORDERED.

Dated: 12/23/2011



CLAUDIA WILKEN
United States District Judge