

1 UNITED STATES DISTRICT COURT
 2 NORTHERN DISTRICT OF CALIFORNIA

3
 4 LOUIS M. BINALEY,

5
 6 Plaintiff,

7 v.

8 AT&T UMBRELLA BENEFIT PLAN NO. 1,
 9 et al.,

10 Defendants.

Case No.: 11-cv-04722-YGR

**ORDER GRANTING MOTION FOR SUMMARY
 JUDGMENT**

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 12 On December 18, 2012, Defendant AT&T Umbrella Benefit Plan No. 1 filed a Motion for
 13 Summary Judgment or, in the Alternative, Motion for Summary Adjudication. (Dkt. No. 31.) On
 14 January 2, 2013, Plaintiff Louis Binaley filed a Statement of Non-Opposition to Defendants' Motion
 15 for Summary Judgment. (Dkt. No. 38.) Plaintiff states that the non-opposition has been filed after
 16 due consideration of Ninth Circuit authority and a diligent consideration of the potential evidentiary
 17 basis to distinguish such authority. (*Id.*) No reply was filed by Defendants.

18 The Court finds that this motion, which has been noticed for hearing on January 22, 2013, is
 19 appropriate for decision without oral argument pursuant to Federal Rule of Civil Procedure 78(b) and
 20 Civil Local Rule 7-1(b). Accordingly, the Court **VACATES** the January 22, 2013 hearing.

21 In light of Plaintiff's non-opposition to the Motion for Summary Judgment, the Court hereby
 22 **GRANTS** that motion. The parties shall meet and confer and submit a proposed form of judgment
 23 within fourteen (14) days. This Order terminates Dkt. No. 31.

24 **IT IS SO ORDERED.**

25 Dated: January 11, 2013

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 27 
 28 YVONNE GONZALEZ ROGERS
 UNITED STATES DISTRICT COURT JUDGE