

United States District Court  
For the Northern District of California

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

KATHLEEN A. STOUT,  
  
Plaintiff,  
  
v.

HARTFORD LIFE AND ACCIDENT  
INSURANCE COMPANY; AMAZON.COM  
HOLDING, INC. LONG TERM  
DISABILITY PLAN, and DOES 1-20,  
inclusive,  
  
Defendants.

No. C 11-6186 CW  
  
ORDER GRANTING  
DEFENDANTS' MOTION  
TO STRIKE AND  
VACATING CASE  
MANAGEMENT  
CONFERENCE

\_\_\_\_\_ /  
  
Defendants Hartford Life and Accident Insurance Company  
(Hartford) and Amazon.Com Holding, Inc. Long Term Disability Plan  
(Plan) move, under Federal Rule of Civil Procedure 12(f), to  
strike Plaintiff Kathleen A. Stout's demand for a jury trial and  
her request for future benefits. Plaintiff opposes the motion and  
Defendants have filed a reply. The motion was taken under  
submission and decided on the papers. Having considered all the  
papers filed by the parties, the Court grants the motion.

DISCUSSION

Defendant Plan is a group long-term disability plan sponsored  
by Amazon.com Holdings, Inc., underwritten and insured by

1 Defendant Hartford and governed by the Employee Retirement Income  
2 Security Act (ERISA), 29 U.S.C. §§ 1001 et seq. At all relevant  
3 times, Plaintiff was employed by Amazon and was insured under the  
4 Plan. Plaintiff alleges that she became disabled as defined by  
5 the Plan and that Hartford improperly denied her long term  
6 disability benefits. She asserts two claims.

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8 Pursuant to Federal Rule of Civil Procedure 12(f), the court  
9 may strike from a pleading "any redundant, immaterial, impertinent  
10 or scandalous matter." Fed. R. Civ. P. 12(f). "Immaterial matter  
11 is that which has no essential or important relationship to the  
12 claim for relief." Fantasy, Inc. v. Fogerty, 984 F.2d 1524, 1527  
13 (9th Cir. 1993), reversed on other grounds, 510 U.S. 517 (1994).

14 Plaintiff acknowledges that Ninth Circuit authority holds  
15 that ERISA does not permit jury trials. See e.g., Thomas v.  
16 Oregon Fruit Prods. Co., 228 F.3d 991, 996 (9th Cir. 2000).  
17 However, she argues that in Great West Life & Annuity Ins. Co. v.  
18 Knudson, 534 U.S. 204, 220-21 (2002), the Supreme Court changed  
19 the law regarding jury trials. Plaintiff is incorrect; Great West  
20 did not address any issue pertaining to the right to a jury trial  
21 under ERISA. See Fowler v. Aetna Life Ins. Co., 2008 WL 4911172,  
22 \*5 (N.D. Cal.) (denying request for jury trial under ERISA). In  
23 light of the fact that there is no right to a jury trial in cases  
24 brought under ERISA, Defendants' motion to strike Plaintiff's jury  
25 demand is granted.  
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1 Defendants move to strike Plaintiff's demand for an order  
2 enjoining them "from terminating benefits for the duration of the  
3 applicable maximum benefit period under the Plan . . ." In  
4 Fowler, 2008 WL 491172 at \*1, the court granted a motion to strike  
5 the same request for declarative relief that is at issue here on  
6 the ground that ERISA does not permit the court to predict the  
7 future, given that circumstances affecting a claimant's  
8 eligibility for benefits might change. In Welsh v. Burlingame N.,  
9 Employee Benefits Plan, 54 F.3d 1331, 1340 (8th Cir. 1995), the  
10 Eighth Circuit affirmed the district court's order declaring that  
11 the plaintiff was entitled to benefits in the future for as long  
12 as he was disabled, noting that the plan had the right to evaluate  
13 whether the plaintiff continued to be disabled in the future.  
14

15 Therefore, Plaintiff may not obtain an order that she is  
16 entitled to an unconditional award of future benefits. The Court  
17 will construe her request as seeking an order entitling her to  
18 future benefits as long as she qualifies for benefits under the  
19 terms of the Plan.  
20

21 CONCLUSION

22 Based on the foregoing, Defendants' motion to strike is  
23 granted. The case management conference scheduled for March 21,  
24 2012 is vacated. The case is hereby referred to private mediation  
25 for alternate dispute resolution, to be held not more than ninety  
26 days from the date of this order.  
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1 Plaintiff may seek discovery informally from Defendants,  
2 which Defendants shall provide if the requests are not burdensome.  
3 If the parties cannot agree, they shall meet and confer. If they  
4 still are unable to agree, the aggrieved party may file a motion,  
5 which will be referred to a magistrate judge. Any discovery shall  
6 be completed by October 11, 2012 and any experts disclosed by  
7 September 11, 2012. If Plaintiff wishes to supplement the  
8 Administrative Record, Plaintiff shall attempt to obtain a  
9 stipulation from Defendants to do so. If the parties cannot agree  
10 on supplemental evidence, Plaintiff may include a request to  
11 supplement the Administrative Record in the brief on the motion  
12 for judgment, submitting the proposed supplemental evidence with a  
13 declaration.

15 The case shall be resolved on cross-motions for judgment  
16 pursuant to Rule 52 of the Federal Rules of Civil Procedure and  
17 Kearney v. Standard Insurance, 175 F.3d 1084 (9th Cir. 1999). The  
18 briefs shall address the scope of review and whether the Court's  
19 review is limited to the Administrative Record or whether  
20 supplemental evidence should be considered.

22 Plaintiff shall file her motion for judgment in a single  
23 brief of no more than twenty-five pages on October 11, 2012.  
24 Defendants shall file their opposition and cross-motion for  
25 judgment in a single brief of no more than twenty-five pages on  
26 November 8, 2012. Plaintiff shall file a reply and opposition to  
27 the cross-motion of no more than fifteen pages on November 22,  
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1 2012. Defendants may file a reply to the cross-motion of no more  
2 than fifteen pages on December 6, 2012. The hearing will be held  
3 on December 20, 2012 at 2:00 pm in Courtroom 2.

4 IT IS SO ORDERED.

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6 Dated: 3/8/2012

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8 CLAUDIA WILKEN  
9 United States District Judge  
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