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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SUZAN MENDOZA,

Plaintiff,

No. C 13-1553 PJH

v.

ORDER

UNITEDHEALTH GROUP, INC., et al.,

Defendants.

_____ /

Plaintiff Suzan Mendoza filed the above-entitled proposed class action on April 5, 2013. On April 23, 2013, plaintiff filed a motion for class certification. Plaintiff did not notice a hearing date in the motion, but in e-filing the motion, plaintiff’s counsel did set the motion for hearing on June 14, 2013. Thus, under Civil Local Rule 7-3 (and as reflected on the court’s docket), the defendants’ opposition was due on May 7, 2013, and plaintiff’s reply was due on May 14, 2013.

Plaintiff also requested that the court “enter and continue the instant motion until after the completion of discovery on class-wide issues, at which time [p]laintiff will submit a fulsome memorandum of points and authorities in support of class certification.” She asserted that she had filed the motion at the outset of the litigation “to prevent [d]efendants from attempting a so-called ‘buy off’ to moot his [sic] representative claims (i.e., tendering to him [sic] the full amount of his [sic] individual damages alleged in the Complaint).” Plaintiff argued that this procedure was appropriate under the Seventh Circuit’s decision in Damasco v. Clearwire Corp., 662 F.3d 891, 896 (7th Cir. 2011).

United States District Court
For the Northern District of California

1 On May 6, 2013, the parties filed a stipulation requesting that the briefing on the
2 class certification motion be deferred, and that the motion be “entered and continued until
3 after discovery, or taken off calendar without prejudice.” On May 7, 2013, the case was
4 reassigned to the undersigned district judge.

5 In Damasco, the Seventh Circuit acknowledged that its ruling on this issue was
6 somewhat at odds with rulings on the same issue by the other circuits, including the Ninth
7 Circuit. Accordingly, in the absence of any binding authority from the Ninth Circuit, and in
8 particular, in light of the ruling in Pitts v. Terrible Herbst, Inc., 653 F.3d 1081, 1084, 1091-
9 92 (9th Cir. 2011), the court finds that the request to “enter and continue” the motion for
10 class certification must be DENIED.


11 The motion for class certification is hereby terminated as premature. The case
12 schedule, including the schedule for discovery and motion practice, will be discussed and
13 set at the initial case management conference (which will be set in due course by separate
14 notice from the court).

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16 **IT IS SO ORDERED.**

17 Dated: May 8, 2013

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PHYLLIS J. HAMILTON
United States District Judge

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