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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

STEVE LIN,

Plaintiff,

vs.

METROPOLITAN LIFE INSURANCE
COMPANY and TRINET EMPLOYEE
BENEFIT INSURANCE PLAN,

Defendants.

Case No: C 15-2126 SBA

**ORDER RE SUPPLEMENTAL
BRIEFING**

Plaintiff Steve Lin brings the instant action under the Employee Retirement Income Security Act to challenge the termination of his long-term disability benefits under TriNet Employee Benefit Insurance Plan (“Plan”). Plaintiff claims that he is disabled within the meaning of the Plan due to his chronic fatigue and headaches. While disputing that Plaintiff is disabled, Defendants contend, in the alternative, that even if he were, any right to the payment of benefits has lapsed. Defendants state:

The record shows that plaintiff’s fatigue complaints had been ongoing for at least three years (see ADMIN 441) when his claim terminated in August 2014 – but the Plan provides a maximum lifetime benefit for CFS of 24 months of payments. (ADMIN 1280-81.) As such, if even plaintiff’s subjective fatigue symptoms were properly attributable to [Chronic Fatigue Syndrome], as the records of Dr. Zarghamee stated at several points, the 24-month period – which would start from the inception of such symptoms – already had concluded prior to July 2014, when benefits terminated.

Dkt. 85 at 20; see also Dkt. 90 at 10-11. In neither of his two briefs has Plaintiff addressed this argument. See Dkt. 37, 88. Accordingly,

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IT IS HEREBY ORDERED THAT:

1. Plaintiff shall file a supplemental brief that specifically addresses Defendants' argument as set forth above; to wit, that, even if he were found disabled, no further benefits are due under the Plan. Plaintiff's supplemental brief shall not exceed two (2) pages and shall be filed by no later than August 1, 2016.

2. In the alternative, the parties may consent to participate in a mandatory settlement conference before a magistrate judge of their choice to take place forthwith.¹ In the event the parties agree to a settlement conference, the Court will refer the matter to the selected magistrate judge for settlement and will hold the pending motion for summary judgment and motion for judgment, along with the deadline for Plaintiff's supplemental brief, in abeyance. If the action does not settle, the Court will reset the deadline for Plaintiff's supplemental brief and thereafter rule on the pending motions. Should the parties desire to proceed with a settlement conference at this time, they shall jointly notify the Court in writing (which shall include their preference(s) for the settlement judge(s)) by no later than August 1, 2016.

IT IS SO ORDERED.

Dated: 7/26/16


SAUNDRA BROWN ARMSTRONG
Senior United States District Judge

¹ If the parties cannot agree on a settlement judge, the Court will select one for them.