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3 **UNITED STATES DISTRICT COURT**
4 **NORTHERN DISTRICT OF CALIFORNIA**
5

6 **ANDREW C., ET AL.,**

7 Plaintiffs,

8 vs.

9 **ORACLE AMERICA INC. FLEXIBLE BENEFIT**
10 **PLAN, ET AL.,**

11 Defendants.

CASE NO. 17-cv-02072-YGR

SCHEDULING AND SEALING ORDER

12 The Court has read and reviewed the parties' Joint Status Report. (Dkt. No. 35). The
13 Court reserves on the issue regarding the breach of fiduciary duty claim. Any request for
14 discovery must be made by motion. Given that this case arises under the Employee Retirement
15 Income Security Act of 1974 ("ERISA"), 29 U.S.C. §§ 1001, *et seq.*, the Court will not set a date
16 for a bench trial until briefing under Federal Rule of Civil Procedure 52 is completed.¹ If
17 required, a bench trial can be scheduled on a fairly expedited basis. A case management
18 conference can be scheduled if required by contacting the Court's courtroom deputy. See Standing
19 Order in Civil Cases ¶ 12.

20 Defendant shall preserve the administrative record. The parties shall meet and confer on
21 the scope of the administrative record and agree upon deadlines for resolution of this issue. The
22 administrative record shall be delivered to the Court seven (7) days prior to the filing of the first
23 brief referenced below and in the manner set forth herein:

24 First, the parties shall file a Notice of Manual Filing on the docket;

25 Second, a physical copy of the administrative record (Bate-stamped and double-sided
26 pages) shall be delivered in three-ringed binders. The administrative record shall include

27 ¹ Should the parties determine that a bench trial will be required, rather than (or in
28 conjunction with) resolution on the papers, the Court will discuss the issue with the parties at the
next case management conference and modify the schedule if necessary.

1 an index and be segregated in appropriate categories, such as medical records, third party
2 expert reports, etc.

3 Third, an electronic copy of the administrative record shall be filed **under seal** pursuant to
4 this Order. Given the anticipated size of the record, it will likely be filed in “parts” which
5 shall be indexed to allow for easy access to the documents. The index shall be separately
6 filed. In addition, the parties shall deliver the electronic form of the administrative record
7 in CDs or thumb-drive(s) along with the physical copy. The electronic copy shall allow
8 for electronic searching.

9 **PRETRIAL SCHEDULE**

10	LAST DAY TO AMEND PLEADINGS/ADD PARTIES	None without Court approval
11		
12	DISCOVERY CUTOFF	Not Applicable as case is being litigated on the Administrative Record
13		
14	PLAINTIFF TO FILE AFFIRMATIVE MOTION FOR JUDGMENT:	October 30, 2018
15		
16	DEFENDANT TO FILE A SINGLE/JOINT MOTION OPPOSING PLAINTIFF’S MOTION WITH ITS OWN CROSS-MOTION FOR JUDGMENT:	November 13, 2018
17		
18	PLAINTIFF TO FILE A REPLY A SINGLE/JOINT REPLY IN SUPPORT OF HIS/HER MOTION WITH AN OPPOSITION TO THE CROSS-MOTION:	November 27, 2018
19		
20	DEFENDANT TO FILE A REPLY IN SUPPORT OF THE CROSS-MOTION ONLY:	December 4, 2018
21		
22	HEARING	December 18, 2018

23 With respect to Rule 52 briefing, each party shall meet and confer on the appropriate
24 standard of review and confirm the same within the briefing. Any disagreement with respect to
25 this issue shall be raised with the Court no later than thirty (30) days prior to the filing of the
26 opening brief by way of the Court’s procedure on summary judgment practice. See Standing
Order in Civil Cases ¶ 9.


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The parties must comply with both the Court’s Standing Order in Civil Cases and Standing Order for Pretrial Instructions in Civil Cases for additional deadlines and procedures. All Standing Orders are available on the Court’s website at <http://www.cand.uscourts.gov/ygrorders>.

IT IS SO ORDERED.

Dated: October 11, 2018


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE