

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

David Day,

NO. C 06-01740 JW

Plaintiff,

**ORDER CONTINUING CASE
MANAGEMENT CONFERENCE**

v.

AT&T Disability Income Plan,

Defendant.

This case is scheduled for a Case Management Conference on October 19, 2009. The parties separately submitted Case Management Statements.¹

In its Order following the December 1, 2008 Case Management Conference, the Court ordered as follows:

The issue of whether Plaintiff's long-term disability benefits should be offset by Plaintiff's pension benefits is remanded to Defendant's Plan Administrator for a determination of whether Plaintiff's benefits are subject to such an offset pursuant to the terms of the Plan. The Plan Administrator shall make a determination on this issue within **ninety (90) days** of the issuance of this Order. See 29 C.F.R. § 2560.503-1(f).

(December 9, 2008 Order, Docket Item No. 113.)

To date, the Plan Administrator has not made a determination regarding this issue. (Plaintiff's Statement at 2; Defendant's Statement at 2.) Accordingly, the Court orders as follows:

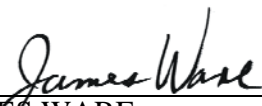
(1) On or before **November 20, 2009**, Defendant's Plan Administrator shall make a

¹ (See Plaintiff's Case Management Statement, hereafter, "Plaintiff's Statement," Docket Item No. 118; Defendant's Case Management Statement, hereafter, "Defendant's Statement," Docket Item No. 119.)

determination on the issue of whether Plaintiff's long-term disability benefits should be offset by Plaintiff's pension benefits, and whether Plaintiff's benefits are subject to such an offset pursuant to the terms of the Plan.

- (2) The Court continues the October 19, 2009 Case Management Conference to **December 7, 2009 at 10 a.m.** On or before **November 30, 2009**, the parties shall file a Joint Case Management Statement. The Statement shall include, among other things, an update on the status of the remand and any resolution of the remand process.

Dated: October 15, 2009



JAMES WARE
United States District Judge

THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:

Caroline Lee Elkin carolineelkin@paulhastings.com
Joseph Al Latham allatham@paulhastings.com
Michael S. Newman mikenewman@paulhastings.com
Robert Burton Nichols nichols@nicholslawgroup.com
Stephen Henry Harris stephenharris@paulhastings.com

Dated: October 15, 2009

Richard W. Wieking, Clerk

By: /s/ JW Chambers
Elizabeth Garcia
Courtroom Deputy