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

Sami Hamade,

NO. C 09-01873 JW

Plaintiff,

v.

**ORDER VACATING CASE
MANAGEMENT CONFERENCE;
SETTING HEARING SCHEDULE FOR
CROSS-MOTIONS FOR SUMMARY
JUDGEMENT**

The Abbott Severance Pay Plan for Former
U.S. Guidant Employees, 2006 EditionDefendant.

This case is scheduled for a Case Management Conference on October 5, 2009. Upon review of the parties' Joint Case Management Conference Statement (Docket Item No. 22), the Court finds that a conference is unnecessary at this time.¹ Accordingly, the Court VACATES the October 5, 2009 Case Management Conference and ORDERS as follows:

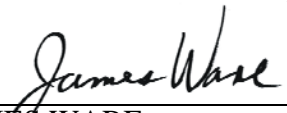
- (1) The parties dispute whether discovery is warranted in this ERISA case. Plaintiff contends that limited discovery should be permitted to resolve the issue of the "conflict of interest." (See Joint Statement at 2.) Defendant contends that discovery outside of the administrative record is improper and irrelevant. (Id.) The Court finds to the extent that there is a dispute regarding the proper "conflict of interest," it is a legal question for the Court to decide. Accordingly, the Court DENIES Plaintiff's request for discovery at this time.

¹ The Court therefore DENIES as moot Defendant's Request to Permit Counsel Joseph J. Torres to Appear by Telephone. (Docket Item No. 20.)

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(2) On **April 19, 2010 at 9 a.m.**, the Court will conduct a hearing on the parties' anticipated cross-motions for summary judgment based on the administrative record. The parties shall file and notice their motions in accordance with the Civil Local Rules of the Court.

Dated: October 1, 2009



JAMES WARE
United States District Judge

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

2 Allison Marie Dibley Adibley@winston.com
3 Joseph James Torres jtorres@winston.com
4 Robert Spagat rspagat@winston.com
5 William Green bill@dgglaw.com

6 **Dated: October 1, 2009**

Richard W. Wieking, Clerk

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8 **By: /s/ JW Chambers**
9 **Elizabeth Garcia**
10 **Courtroom Deputy**

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