

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

John Alamillo,

NO. C 09-02597 JW

Plaintiff,

SCHEDULING ORDER

v.

Apple Computer Inc. Group Disability Plan,
et al.,

Defendants.

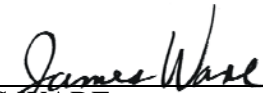
This case is scheduled for a Case Management Conference on October 26, 2009. Upon review of the parties' Joint Case Management Conference Statement (Docket Item No. 13), the Court finds that a conference is unnecessary at this time. Accordingly, the Court VACATES the October 26, 2009 Case Management 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 Defendant Life Insurance Company of North America's ("LINA") "conflict of interest and bias, as well as the bias of medical experts upon whom LINA relied in denying the claim." (See Joint Statement at 3.) Defendant contends that discovery outside of the administrative record is not warranted because this case is governed by ERISA. (*Id.*) The Court finds to the extent that there is a dispute regarding "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
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

(2) On **June 7, 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 their motions in accordance with the Civil Local Rules of the Court. The parties may stipulate to a briefing schedule, however, all briefing for the cross-motions shall be completed on or before **May 17, 2010**.

Dated: October 20, 2009



JAMES WARE
United States District Judge

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

Christina Renee Van Wert christina.vanwert@wilsonelser.com
Scott E. Shaffman sshaffman@aol.com
Sean Patrick Nalty sean.nalty@wilsonelser.com
Sheena V. Jain sheena.jain@wilsonelser.com

Dated: October 20, 2009

Richard W. Wieking, Clerk

By: /s/ JW Chambers
Elizabeth Garcia
Courtroom Deputy