

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-01050-MSK-KLM

PETER FRAGALE, individually and on behalf of all others similarly situated,

Plaintiff,

v.

LEVEL 3 COMMUNICATIONS INC.,
JAMES Q. CROWE,
WALTER SCOTT, JR.,
R. DOUGLAS BRADBURY,
DOUGLAS C. EBY,
JAMES O. ELLIS, JR.,
RICHARD R. JAROS,
ROBERT E. JULIAN,
MICHAEL J. MAHONEY,
CHARLES C. MILLER III,
ARUN NETRAVALI,
JOHN T. REED,
MICHAEL B. YANNEY,
ALBERT C. YATES,
LEVEL 3 COMMUNICATIONS, INC. 401K PLAN COMMITTEE, and
JOHN DOES 1-10,

Defendants.

MINUTE ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on the parties' **Stipulated Motion to Establish Schedule for Responding to Plaintiffs' Motions to Consolidate ERISA Actions, Appoint Interim Lead and Liaison Class Counsel, for Entry of a Pretrial Schedule, and to Suspend Scheduling and Status Conference** [Docket No. 8; Filed June 16, 2009] (the "Motion").

IT IS HEREBY **ORDERED** that the Motion is **GRANTED IN PART** and **DENIED IN PART**. The parties request that the Court enter an Order establishing a schedule for responding to Plaintiffs' pending motions seeking (1) consolidation of three pending ERISA actions against these Defendants; (2) appointment of class counsel; and (3) entry of a case management order. The Court cannot grant the requested relief because there are no

motions pending in this case. The motion referred to by the parties has been filed and is pending in *Walter v. Level 3 Communications, Inc.*, No. 09-cv-00658-REB-CBS and *Dagres v. Level 3 Communications, Inc.*, No. 09-cv-00952-PAB. This Court cannot set a schedule for motions pending before other judges of the District Court. Therefore, the request for a scheduling order is **DENIED**.

IT IS HEREBY FURTHER **ORDERED** that the motion to vacate the Scheduling Conference set for July 8, 2009 at 11:00 a.m. is **GRANTED**. The Scheduling Conference is **vacated** and will be reset after the ruling on Plaintiffs' pending motions in *Walter v. Level 3 Communications, Inc.*, No. 09-cv-00658-REB-CBS and *Dagres v. Level 3 Communications, Inc.*, No. 09-cv-00952-PAB.

Dated: June 18, 2009