

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior District Judge Richard P. Matsch

Civil Action No. 10-cv-00800-RPM

ROBERT FRASER,

Plaintiff,

v.

AVAYA INC., a Delaware corporation, and
THE AVAYA INC. SICKNESS AND ACCIDENT DISABILITY PLAN,

Defendants.

ORDER DEFERRING PLAINTIFF'S MOTION FOR AWARD OF ATTORNEYS' FEES BASED
ON ERISA AND FOR ENTRY OF SCHEDULING ORDER

On September 5, 2012, the plaintiff filed a motion for an award of attorneys' fees based on the Court's second order awarding short-term benefits under ERISA and the defendants responded. Because the ERISA claim is only a portion of the relief requested by the plaintiff and the other claims in the case could also include an award for attorney's fees if the plaintiff prevails, the determination of an award of attorneys' fees for the ERISA claim only will be deferred until this civil action is fully adjudicated. The plaintiff also filed an unopposed motion to set a scheduling conference or for approval of the proposed scheduling order. The proposed scheduling order has now been entered as agreed by that motion. It is

ORDERED that the plaintiff's motion for an award of attorneys' fees under ERISA is deferred, and it is

FURTHER ORDERED that the plaintiff's motion for limited discovery relative to attorneys' fees is denied, and it is

FURTHER ORDERED that the proposed scheduling order submitted by the plaintiff on October 26, 2012, has been entered.

Dated: November 20th, 2012

BY THE COURT:

s/Richard P. Matsch

Richard P. Matsch, Senior District Judge