

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL ACTION NO. 3:17-CV-00643-FDW-DCK

DENISE KINSINGER, )  
ERIC KINSINGER, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
STEVEN MATTHEW GOOD, )  
WILLIAM H WINN JR, )  
SMARTCORE, LLC GROUP HEALTH )  
BENEFIT PLAN, )  
SMARTCORE ELECTRICAL SERVICES, )  
LLC, )  
SMARTCORE ELECTRIC, LLC, )  
SMARTCORE, LLC, )  
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 )  
Defendants. )  
 )

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ORDER

This order is intended to memorialize and clarify the Court’s oral orders on post-trial filings and supplemental briefing following the bench trial held on June 4, 2019. Parties will have thirty (30) days from this Order’s entry to file additional proposed findings of fact, if they choose to do so. Proposed findings of fact must have specific citations to parts of the record.


The Court is also ordering supplemental briefing on the interaction between this case and a similar case filed by the Department of Labor. See generally, Acosta v. Good et al., No. 3:19-cv-119-FDW-DCK (W.D.N.C. filed Mar. 7, 2019). Specifically, parties are instructed to brief the Court on whether the cases should be consolidated with regards to the fiduciary duty claim, whether the Department of Labor should be allowed to intervene in the current case, and the Department of Labor’s potential role in implementing the equitable relief the Court may find that

the Plan is entitled to under Plaintiffs' breach of fiduciary duty claim. Parties are ordered to confer with the Department of Labor prior to filing supplemental briefings on these issues. Supplemental briefings should be filed within thirty (30) days of this order's entry and should be no longer than 3,000 words in length. Parties may file one joint brief within thirty (30) days of this order's entry if they are able to reach an agreement on these issues. If the parties are unable to agree, parties will each be allowed to file one (1) response within fourteen (14) days of the initial supplemental briefs.

The Court notes that Plaintiffs are seeking attorney fees under a variety of their claims, including the claim for wrongful denial of benefits, which was resolved by way of a consent judgment on June 4, 2019. The Court will order briefing on attorney fees on all claims at a later date, after it has made findings of fact on all of the issues. This order will supersede the portion of the earlier consent judgment that required briefing on attorney fees within thirty days. The remainder of the consent judgment signed by all parties on June 4, 2019 in open court remains in full effect.

IT IS SO ORDERED.

Signed: June 4, 2019

A handwritten signature in black ink, appearing to read "Frank D. Whitney", written over a horizontal line.

Frank D. Whitney  
Chief United States District Judge

