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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF WASHINGTON
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9 ALMA and BENNY VILLARREAL,

No. 1:16-cv-03114-SAB

10 husband and wife,

11 Plaintiffs,

12 vs.

ORDER GRANTING IN PART

AND DENYING IN PART

MOTION TO DISMISS AND

GRANTING LEAVE TO FILE

FIRST AMENDED COMPLAINT

13 INLAND EMPIRE ELECTRICAL

14 WORKERS HEALTH AND WELFARE

15 TRUST ("IEEW"); IEEW BOARD OF

16 TRUSTEES; AETNA INSURANCE

17 COMPANY; REHN AND ASSOCIATES;

18 DAVID KIMMET; KRISTEN KNOX; and

19 JOHN DOES NOS. 1-20,

20 Defendants.
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22 On June 21, 2016, Defendants filed a Fed. R. Civ. P. 12(b)(6) Motion to
23 Dismiss for Failure to State a Claim, ECF No. 4. The motion to dismiss is based
24 on the argument that Plaintiffs' claims for benefits under a health insurance plan
25 are preempted by federal law. Plaintiffs concede that the Employee Retirement
26 Income Security Act ("ERISA"), 28 U.S.C. § 1001 et seq., preempts their claims,
27 as the plan in question is governed by ERISA and their claims derive from the
28 plan.

ORDER GRANTING IN PART AND DENYING IN PART . . . ^ 1

1 Plaintiffs are correct, however, that any dismissal is limited to preempted
2 state law claims, and that an ERISA claim may be set forth in a new complaint.
3 Therefore the Court **grants** the motion to dismiss only as far as preempted state
4 law claims are concerned. Plaintiffs are otherwise granted leave to file their
5 proposed amended complaint.

6 Accordingly, **IT IS HEREBY ORDERED:**

7 1. Defendants' Motion to Dismiss for Failure to State a Claim, ECF No. 4, is
8 **GRANTED IN PART AND DENIED IN PART.** Preempted state law claims are
9 **dismissed.** However, any appropriate ERISA claims, and their factual bases, may
10 be pleaded in an amended complaint.

11 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order
12 and forward copies to counsel.

13 **DATED** this 19th day of August, 2016.



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A handwritten signature in blue ink, reading "Stanley A. Bastian". The signature is written in a cursive, flowing style.

19 Stanley A. Bastian
20 United States District Judge
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