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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JAMES ANDREW DANA,	)	
	)	CASE NO. C14-0336 RSM
Plaintiff,	)	
	)	ORDER GRANTING DEFENDANT'S
v.	)	MOTION FOR SUMMARY JUDGMENT
	)	AND DENYING PLAINTIFFS MOTION
WESTERN STATES INSULATORS &	)	FOR SUMMARY JUDGMENT
ALLIED WORKERS PENSION PLAN,	)	
	)	
Defendant.	)	

**I. INTRODUCTION**

This matter comes before the Court on the parties' Cross-Motions for Summary Judgment. Dkts. #17 and #20. The parties agree that there are no disputed material facts. Plaintiff argues that Defendant must pay retroactive disability pension benefits back to April 1, 2004, which is what he contends is the earliest date upon which Social Security Disability Insurance ('SSDI') benefits became payable to him. Dkt. #17. Defendant contends that it is only required to pay benefits back to January 2009, which it has already done, because that is the date Plaintiff began receiving SSDI benefits. Dkt. #20. For the reasons discussed herein, the Court agrees with Defendant and GRANTS Defendant's Motion for Summary Judgment and DENIES Plaintiff's Motion for Summary Judgment.

**II. BACKGROUND**

This case arises out of a denial of retroactive disability benefits under Defendant Pension Plan. Dkt. #1. Plaintiff had been a pipe insulator since 1980, and was a member of

1 Heat and Frost Insulators and Asbestos Workers Local #7. As such, he was a beneficiary of  
2 Defendant Pension Plan. Dkt. #1 at ¶¶ 7-8. Plaintiff worked as a pipe insulator until October  
3 30, 2003, when he stopped working due to disability. *Id.* at ¶¶ 9-10. He apparently received  
4 time loss benefits through the Washington Department of Labor & Industries (‘L&I’) until  
5 January 15, 2010, at which time the Department determined he was completely disabled and  
6 placed him on pension effective January 16, 2010. *Id.* at ¶ 10.

8 Plaintiff then applied for disability benefits from Defendant Pension Plan. *Id.* at ¶¶ 11.  
9 The Plan denied Plaintiff’s application for disability benefits on December 8, 2010, as he had  
10 not yet applied for Social Security benefits, but granted him an Early Retirement. *See id.* at ¶  
11 13. Plaintiff then applied for Social Security Disability Insurance benefits. *Id.* at ¶ 12. On  
12 November 18, 2011, a Social Security Administrative Law Judge found that Plaintiff had been  
13 continuously totally and permanently disabled since October 30, 2003. *Id.* at ¶ 14. On  
14 December 13, 2011, Social Security issued an Award Letter finding plaintiff entitled to  
15 retroactive disability benefits beginning in January of 2009. *Id.* at ¶ 15. Plaintiff provided a  
16 copy of the award letter to Defendant Pension Plan, and received an adjustment of benefits  
17 back to January 2009. *Id.* at ¶ 16. Plaintiff disputed the Plan’s recalculation, which Defendant  
18 construed as an appeal. The appeal was denied on March 8, 2012. *Id.* at ¶¶ 17-18.

21 The parties now dispute the meaning of Section 4.1(d) of the Plan Document, which  
22 provides:

24 Benefit Period for Both Plan A and Plan B Disability Benefits. Benefits  
25 shall commence on the date that Social Security disability benefits first  
26 become payable to the employee as a result of the same disabling condition.

27 . . .

1 Dkt. #20-1, Ex. A at Section 4.1(d). The parties specifically dispute when SSDI benefits  
2 became ‘payable.’<sup>1</sup>

### 3 III. DISCUSSION

#### 4 A. Legal Standard on Summary Judgment

5 Summary judgment is appropriate where ‘the movant shows that there is no genuine  
6 dispute as to any material fact and the movant is entitled to judgment as a matter of law.’ Fed.  
7 R. Civ. P. 56(a); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247 (1986). In ruling on  
8 summary judgment, a court does not weigh evidence to determine the truth of the matter, but  
9 ‘only determine[s] whether there is a genuine issue for trial.’ *Crane v. Conoco, Inc.*, 41 F.3d  
10 547, 549 (9th Cir. 1994) (citing *Federal Deposit Ins. Corp. v. O’Melveny & Meyers*, 969 F.2d  
11 744, 747 (9th Cir. 1992)). Material facts are those which might affect the outcome of the suit  
12 under governing law. *Anderson*, 477 U.S. at 248. The parties agree that there are no disputed  
13 material facts and that this matter is appropriate for disposition on the instant cross-motions.  
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#### 16 B. Standard of Review Applicable to this ERISA Dispute

17 The parties agree that the appropriate standard of review for the instant matter is abuse  
18 of discretion. Under this standard, the Court essentially determines whether the decision of the  
19 pension Trustees was arbitrary and capricious. *Canseco v. Construction Laborers Pension*  
20 *Trust for So. Cal.*, 93 F.3d 600, 605 (9th Cir. 1996). The question ‘is not ‘whose interpretation  
21 of the Plan documents is most persuasive, but whether the Trustees’ interpretation is  
22 unreasonable.’ *Id.* at 606 (quoting *Winters v. Costco Wholesale Corp.*, 49 F.3d 550, 553 (9th  
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25 <sup>1</sup> It is not clear whether Plaintiff initially alleged relief based on an equitable estoppel theory,  
26 see Dkt. #1; however, Defendant moved for summary judgment on the basis that Plaintiff could  
27 not succeed under such a theory. Dkt. #20 at 7-10. Plaintiff concedes that he cannot meet the  
28 required elements under an equitable estoppel theory. Dkt. #23 at 1. Therefore the Court  
dismisses Plaintiff’s claims to the extent they were based on such a theory and will not address  
it further herein.

1 Cir. 1995). The Trustees' interpretation of the plan terms will only be found to have been an  
2 abuse of discretion when the interpretation is illogical, implausible or without support from  
3 inferences that may be drawn from the facts in the record. *Salomaa v. Honda Long Term*  
4 *Disability Plan*, 637 F.3d 958, 967 (9th Cir. 2011) (citations omitted).

5 **C. Interpretation of Section 4.1(d)**

6 As noted above, on December 13, 2011, Social Security issued an Award Letter finding  
7 plaintiff entitled to retroactive disability benefits beginning in January of 2009. Dkts. #18, Ex.  
8 H and #20-1, Ex. E. Plaintiff provided a copy of the award letter to Defendant Pension Plan,  
9 and received an adjustment of benefits back to January 2009. Dkts. #18, Ex. I and #20-1, Ex.  
10 F. Plaintiff appealed that decision, seeking benefits back to the date he became permanently  
11 disabled. Dkt. #18, Ex. J. On March 8, 2012, Defendant denied the appeal, stating:  
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13  
14 The Board of Trustees of the Western States Insulators and Allied Workers  
15 Pension Plan reviewed your request for appeal on the referenced date.  
16 Please be advised that the Board of Trustees denied your request.

17 Based on the information the rules of the Plan were properly applied.

18 Dkt. #18, Ex. L. Internal documents further reflect the basis for this decision:

19 **Denial Rationale:** Plan Document, Section 4.1(d) allows disability benefits  
20 to commence on the date Social Security disability benefits become  
21 payable.

22 Dkt. #18, Ex. K.

23 As an initial matter, Plaintiff asks the Court to find that the Trustees abused their  
24 discretion because they failed to explain the reasons for their denial. Plaintiff acknowledges  
25 that the Trustees found that the rules of the Plan had been properly applied, but argues that this  
26 'falls far short of a specific explanation with references to specific plan provisions,' as required  
27 by statute. Dkt. #26 at 1-2. It is true that the denial lacks specific references. However, the  
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1 Ninth Circuit has explained that minor procedural errors do not change the standard of review,  
2 and that courts will typically defer to the plan administrator unless the procedural defect is so  
3 egregious as to reduce such deference such as a conflict of interest. *See Abatie v. Alta Health*  
4 *& Life Ins. Co.*, 458 F.3d 955, 971-72 (9th Cir. 2006). Defendant's failure to cite to specific  
5 plan provisions does not rise to such a level that this Court would find an abuse of discretion,  
6 particularly where, as here, Defendant provided Plaintiff with an explanation of how it  
7 determined his benefits, provided him with the means to appeal the decision, and then  
8 ultimately informed him that the benefits had been properly calculated under the Plan.  
9 Accordingly, the Court does not find an abuse of discretion for Defendant's failure to cite to  
10 specific Plan provisions in its denial letter.<sup>2</sup>  
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13 The Court further finds that the Trustees' decision was not unreasonable under these  
14 circumstances. The Trustees read the plan documents under the plain meaning of the word  
15 "payable," which means monies that may, can or must be paid. *See* [www.merriam-](http://www.merriam-webster.com/dictionary/payable)  
16 [webster.com/dictionary/payable](http://www.merriam-webster.com/dictionary/payable), last visited March 4, 2015. The Trustees acknowledged that  
17 Mr. Dana had received Social Security benefits beginning in January of 2009 and made his  
18 pension disability benefits retroactive to the same date. While the Trustees' interpretation of the  
19 word "payable" may not be the only interpretation of that word, this Court cannot say that the  
20 interpretation went against the plain meaning of the Plan Document or that it was illogical,  
21 implausible or without support from inferences that may be made from the facts in this record.  
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23 *Salomaa*, 637 F.3d at 967.  
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27 <sup>2</sup> Defendant is cautioned that future statutory violations of this nature may not result in the  
28 same deference by the Court, and Defendant would be better served by including the required  
citations in future letters.

1 Plaintiff also urges this Court to find that the Trustees abused their discretion because  
2 the terms of the Plan Document and the Summary Plan Description (“SPD”) conflict.  
3 Specifically, Plaintiff notes that the Plan Document applies the “payable” limitation to both Plan  
4 A and Plan B benefits, while the SPD notes the same limitation only with respect to Plan B.<sup>3</sup>  
5 Dkt. #17 at 8. Plaintiff also argues that because the Plan provides that employees must apply  
6 for Workers Compensation Benefits and/or Social Security disability benefits prior to applying  
7 for pension disability benefits, that led him to delay his application for Social Security benefits  
8 until after he worked through the state compensation benefits program, which has now worked  
9 to his detriment. Dkt. #26 at 2-3. However, Plaintiff’s argument is belied by his own deposition  
10 testimony. Indeed, Plaintiff has testified that the reason he did not apply for Social Security  
11 benefits until 2010 was because of erroneous representations by Social Security representatives  
12 and because he was still hoping to return to work at some point, not because of confusion over  
13 the Plan requirements. Dkt. #20-1, Ex. G at 16:21-17:12. Further, the United States Supreme  
14 Court has determined that the SPD is not part of the Plan Document and any conflict between  
15 the two is controlled by the Plan Document. *See Cigna v. Amara Corp.*, \_\_\_ U.S. \_\_\_, 131 S. Ct.  
16 1866, 1878, 179 L.Ed.2d 843, 855-56 (2001) (concluding that “the summary documents,  
17 important as they are, provide communication with beneficiaries *about* the plan, but that their  
18 statements do not themselves constitute the *terms* of the plan”(emphasis in original)). For all of  
19 these reasons, the Court finds that the Trustees did not abuse their discretion, and Mr. Dana’s  
20 claims are denied.  
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#### 25 IV. CONCLUSION

26 Having reviewed the relevant pleadings, the declarations and exhibits attached thereto,  
27 and the remainder of the record, the Court hereby finds and ORDERS:

28 <sup>3</sup> Only Plan A benefits are at issue in this case. Dkt. #18, Ex. M.

1. Plaintiff's Motion for Summary Judgment (Dkt. #17) is DENIED.
2. Defendant's Motion for Summary Judgment (Dkt. #20) is GRANTED.
3. Plaintiff's claims are dismissed in their entirety and this case is now CLOSED.

DATED this 9 day of March 2015.



RICARDO S. MARTINEZ  
UNITED STATES DISTRICT JUDGE