

THE HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT  
 WESTERN DISTRICT OF WASHINGTON  
 AT TACOMA

THOMAS CASCADDAN,

Plaintiff,

v.

THE PRUDENTIAL INSURANCE  
 COMPANY OF AMERICA,

Defendant.

Case No. 3:17-cv-05402-RBL

**JOINT STIPULATION FOR DE  
 NOVO STANDARD OF REVIEW**

Plaintiff Thomas Cascaddan (“Cascaddan”) and Defendant The Prudential Insurance Company of America (“Prudential”) (collectively, “Parties”), by and through their respective counsel of record, hereby stipulate that for purposes of this case only, this Court shall apply a *de novo* standard of review to Prudential’s decision denying Cascaddan’s claim for long-term disability benefits at issue in this case, including without limit at trial, on summary judgment and in all other proceedings and hearings. The parties further stipulate that this matter will be heard on FRCP 52 motions for trial on the administrative record. *Kearney v. Standard Ins. Co.*, 175 F.3d 1084, 1095 (9th Cir. 1999).

Prudential’s agreement that its decision shall be reviewed *de novo* is in recognition of the Ninth Circuit Court of Appeals’ decision in *Orzechowski v. Boeing Co. Non-Union Long-Term Disability Plan*, No. 14-55919, 2017 WL 1947883, \_\_\_ F.3d \_\_\_ (9th Cir. May 11, 2017), and applies only to the Court’s review in this particular case.

JOINT STIPULATION FOR DE NOVO STANDARD OF REVIEW  
 (No.: 3:17-cv-05402-RBL) - 1

LANE POWELL pc  
 1420 FIFTH AVENUE, SUITE 4200  
 P.O. BOX 91302  
 SEATTLE, WA 98111-9402  
 206.223.7000 FAX: 206.223.7107

1 Notwithstanding anything in this Stipulation, the Parties agree that Prudential reserves its  
2 right to assert that the abuse of discretion standard applies to its denial decision if, while this case  
3 is still pending in this Court, (1) the Ninth Circuit grants a rehearing or a rehearing *en banc* in  
4 *Orzechowski*; or (2) the United States Supreme Court grants *certiorari* in: (a) *Orzechowski*, or  
5 (b) another case raising the same issue. The Parties further agree that, in the event that Prudential  
6 elects to assert that the abuse of discretion standard applies, Prudential will promptly notify  
7 Cascaddan of its intent and, moreover, Cascaddan will then have the right to file a motion to  
8 determine the proper standard of review in this case even if the dispositive motion deadline has  
9 passed.

10 The Parties jointly request their stipulation to be entered as an order of this Court  
11 governing further proceedings in this action.

12 DATED: September 6, 2017.

13  
14 ROY LAW

LANE POWELL PC

15 By s/ Chris Roy (per e-mail authorization)  
16 Chris Roy, WSBA No. 29070  
chris@roylawpdx.com

By s/ David W. Howenstine  
D. Michael Reilly, WSBA No. 14674  
reillym@lanepowell.com  
David W. Howenstine, WSBA No. 41216  
howenstined@lanepowell.com

17 Attorneys for Plaintiff  
18 Thomas Cascaddan

19 SEYFARTH SHAW LLP

20 By s/ Tara Ellis  
21 Ian H. Morrison, *Pro Hac Vice*  
imorrison@seyfarth.com  
22 Tara Ellis, *Pro Hac Vice*  
tellis@seyfarth.com

23 Attorneys for Defendant The  
24 Prudential Insurance Company of America

**ORDER**

IT IS SO ORDERED. The Parties' joint stipulation for de novo standard of review is hereby APPROVED.

DATED this 13<sup>th</sup> day of September, 2017.

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Ronald B. Leighton  
United States District Judge