

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CHERYL ALOFF et al.,

CASE NO. 3:25-cv-05834-DGE

Plaintiffs,

ORDER GRANTING MOTIONS TO
DISMISS (DKT. NOS. 14, 24)

THE PRUDENTIAL INSURANCE
COMPANY OF AMERICA et al.,

Defendants.

Plaintiffs Cheryl Aloff and Kimberly Pulido brought this action against Defendants The Prudential Insurance Company of America (“Prudential”) and Clay Lacy Aviation, Inc. (“Clay Lacy”) alleging that Defendants violated the Employee Retirement Income Security Act (“ERISA”), 29 U.S.C. § 1132(a), when they failed to pay accidental death and dismemberment (“AD&D”) benefits following the death of their husbands. (Dkt. No. 1.) Defendants move to dismiss the complaint pursuant to Federal Rule of Civil Procedure 12(b)(1) and (6). (Dkt. Nos.

1 14, 24.) For the reasons addressed below, the Court GRANTS the motions to dismiss.

2 **I BACKGROUND**

3 **A. Factual Background¹**

4 Aloff and Pulido are the respective wives and beneficiaries of Paul Berliner and Darrin
5 Towe, two pilots employed by Clay Lacy. (Dkt. No. 1 at 3–4.) On February 7, 2024, Towe and
6 Berliner died in an airplane crash. (*Id.* at 2–4.) Plaintiffs both sought AD&D benefits pursuant
7 to Clay Lacy’s employee life insurance policy, which was funded and administered by
8 Prudential, and governed by ERISA. (*Id.* at 3–5.) Prudential denied both Plaintiffs’ claims. (*Id.*
9 at 4.) Plaintiffs appealed their respective claim denial, and Prudential denied both appeals. (*Id.*)
10 Plaintiffs allege “[i]n both denial letters and in both appeal denial letters, Prudential cited to the
11 same exclusion as basis to deny AD&D life insurance benefits, a so-called aviation exclusion.”
12 (*Id.*)

13 Plaintiffs allege the aviation exclusion either “does not apply[,]” or, if applicable, “should
14 be stricken and the life insurance policy construed in favor of coverage” because “[n]o aviation
15 employer should be permitted to negotiate and buy life insurance policies for its pilots excluding
16 AD&D benefits for aviation-related deaths.” (*Id.*) Plaintiffs argue Clay Lacy and Prudential
17 “negotiated the so-called aviation exclusion to the life insurance policy to protect Clay Lacy’s
18 bottom line.” (*Id.* at 5.) According to Plaintiffs, because Clay Lacy knew, or should have
19 known, this exclusion could mean no AD&D coverage for the death of any Clay Lacy pilot
20 operating an airplane, Clay Lacy’s representation of being an employer offering airplane pilot
21 employees fully paid life insurance benefits was false or misleading. (*Id.*) Additionally,

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¹ The factual allegations taken in Plaintiffs’ complaint are taken as true for purposes of this
24 motion.

1 Prudential “knew or should have known of this glaring representation and of its falsity or
2 misleadingness.” (*Id.*)

3 **B. Procedural Background**

4 On September 18, 2025, Plaintiffs sued Defendants for (1) recovery of plan benefits
5 under ERISA, (2) breach of fiduciary duties, (3) equitable relief, (4) violation of California’s
6 Unfair Competition Law (“UCL”), and (5) violation of Washington’s Consumer Protection Act
7 (“WCPA”). (*Id.* at 5–10.) On November 5, 2025, Prudential moved to dismiss the complaint
8 pursuant to Rule 12(b)(1) and 12(b)(6). (Dkt. No. 14.) On November 21, 2025, Clay Lacy
9 moved to dismiss pursuant to Rule 12(b)(6). (Dkt. No. 24.)

10 **II LEGAL STANDARD**

11 Federal Rule of Civil Procedure 12(b) motions to dismiss may be based on either the lack
12 of a cognizable legal theory or the absence of sufficient facts alleged under a cognizable legal
13 theory. *Balistreri v. Pacifica Police Dep’t.*, 901 F.2d 696, 699 (9th Cir. 1988). Material
14 allegations are taken as admitted and the complaint is construed in the plaintiff’s favor. *Keniston*
15 *v. Roberts*, 717 F.2d 1295, 1300 (9th Cir. 1983). “While a complaint attacked by a Rule 12(b)(6)
16 motion to dismiss does not need detailed factual allegations, a plaintiff’s obligation to provide
17 the ‘grounds’ of his ‘entitle[ment] to relief’ requires more than labels and conclusions, and a
18 formulaic recitation of the elements of a cause of action will not do.” *Bell Atl. Corp. v.*
19 *Twombly*, 550 U.S. 544, 554–555 (2007) (internal citations omitted). “Factual allegations must
20 be enough to raise a right to relief above the speculative level, on the assumption that all the
21 allegations in the complaint are true [even if doubtful in fact].” *Id.* at 555. The complaint must
22 allege “enough facts to state a claim to relief that is plausible on its face.” *Id.* at 547. “The court
23 need not, however, accept as true allegations that contradict matters properly subject to judicial
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1 notice or by exhibit. Nor is the court required to accept as true allegations that are merely
2 conclusory, unwarranted deductions of fact, or unreasonable inferences.” *Sprewell v. Golden*
3 *State Warriors*, 266 F.3d 979, 988 (9th Cir.), *opinion amended on denial of reh’g*, 275 F.3d 1187
4 (9th Cir. 2001) (internal citation omitted).

5 **III ANALYSIS**

6 As an initial matter, Prudential attached to its motion to dismiss two documents entitled
7 “Clay Lacy Aviation Inc. Corporate Executives other than Connecticut Executives,” and “Clay
8 Lacy Aviation Inc. Group Contract.” (See Dkt. Nos. 14-2, 14-3.) Prudential alleges these
9 documents represent the decedents’ life insurance policies, and the Court should consider them
10 because Plaintiffs referred to them in the complaint. (Dkt. No. 14 at 1–3, 5.) Plaintiffs argue the
11 Court should not consider these documents because Prudential offers no explanatory description,
12 and their “facial applicability is questionable” because “neither deceased pilot was a Clay Lacy
13 executive.” (Dkt. No. 25 at 10.) Prudential also attached to its reply a letter addressed to Aloff
14 denying her request for AD&D benefits. (Dkt. No. 27 at 16–19.) The letter cites an exclusion
15 entitled “Losses Not Covered” from “Group policy G-61476” as the basis for the denial. (*Id.*)

16 In reviewing a motion to dismiss under Rule 12(b)(6), a court may “consider documents
17 ‘whose contents are alleged in a complaint and whose authenticity no party questions, but which
18 are not physically attached to the [plaintiff’s] pleading.’” *In re Silicon Graphics Inc. Sec. Litig.*,
19 183 F.3d 970, 986 (9th Cir. 1999) (quoting *Branch v. Tunnell*, 14 F.3d 449, 454 (9th Cir. 1994);
20 *see also United States v. Ritchie*, 342 F.3d 903, 908 (9th Cir. 2003) (“A court may, however,
21 consider certain materials—documents attached to the complaint, documents incorporated by
22 reference in the complaint, or matters of judicial notice—without converting the motion to
23 dismiss into a motion for summary judgment.”). However, the court cannot consider any

1 documents incorporated by reference in a complaint if the authenticity of those documents is
2 contested. *See Parrino v. FHP, Inc.*, 146 F.3d 699, 706 (9th Cir. 1998), superseded by statute on
3 other grounds as recognized in *Abrego Abrego v. Dow Chem. Co.*, 443 F.3d 676, 681–682 (9th
4 Cir. 2006). The requirement of mutual agreement regarding authenticity is consistent with the
5 requirements for taking judicial notice of documents. *See* Fed. R. Evid. 201(b)(2) (authorizing
6 judicial notice of facts “not subject to reasonable dispute” found in sources “whose accuracy
7 cannot reasonably be questioned”).

8 Because Plaintiffs contest the authenticity of the documents attached to Prudential’s
9 motion to dismiss, the Court does not consider them.² Furthermore, the Court is unsure whether
10 the group policy recited within the denial letter is a true and accurate reflection of the “aviation
11 exclusion” discussed in Plaintiffs’ complaint. Because there is a question of fact as to the
12 authenticity and reproduction of the policy terms, the Court also will not consider this document.

13 **A. Recovery of Benefits Under 29 U.S.C. § 1132(a)(1)(B)**

14 Plaintiffs’ first cause of action is for violation of 29 U.S.C. § 1132(a)(1)(B), ERISA
15 § 502(a)(1)(B). (Dkt. No. 1 at 5.) § 1132(a)(1)(B) provides, in relevant part, that “[a] civil
16 action may be brought by a participant or beneficiary . . . to recover benefits due to him under the
17 terms of his plan, to enforce his rights under the terms of the plan, or to clarify his rights to future
18 benefits under the terms of the plan.” “To state a claim under [29 U.S.C. § 1132(a)(1)(B)], a
19 plaintiff must allege facts that established (1) the existence of an ERISA plan as well as (2) the
20 provisions of the plan that entitle it to benefits.” *Reiten v. Blue Cross of Cal.*, No. 2:19-cv-
21 05274-AB-AFMx, 2020 WL 1032371, at *2 (C.D. Cal. Jan. 23, 2020) (citation omitted). A

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² Clay Lacy attaches to its motion to dismiss seemingly identical documents as attached to
24 Prudential’s motion to dismiss. (*Compare* Dkt. No. 14-2, 14-3 to Dkt. No. 29.) For the same
reasons as stated above, the Court does not consider these documents.

1 § 1132(a)(1)(B) claim for benefits “stands or falls by ‘the terms of the plan.’” *Kennedy v. Plan*
2 *Adm’r for DuPont Sav. & Inv. Plan*, 555 U.S. 285, 300 (2009).

3 “*A plan is established if a reasonable person ‘can ascertain the intended benefits, a class*
4 *of beneficiaries, the source of financing, and procedures for receiving benefits.’”* *Id.* (citation
5 omitted). “Accordingly, a plaintiff who brings a claim for benefits under ERISA must identify a
6 specific plan term that confers the benefit in question.” *Almont Ambulatory Surgery Ctr., LLC v.*
7 *UnitedHealth Grp., Inc.*, 99 F. Supp. 3d 1110, 1155 (C.D. Cal. 2015) (internal quotation marks
8 omitted).

9 Prudential argues that Plaintiffs “fail to cite any Plan term that would entitle them to
10 AD&D benefits,” and instead “*concede. . . that the Plan as written does not authorize AD&D*
11 *benefits to be paid when an insured suffers a loss while performing as an airplane pilot.*” (Dkt.
12 No. 14 at 6.) Plaintiffs allege the aviation exclusion “does not apply,” and if it “could apply, it
13 should be stricken and the life insurance policy construed in favor of coverage on multiple legal
14 grounds.” (Dkt. No. 1 at 4.) Plaintiffs may allege that the aviation exclusion does not apply, but
15 they do not actually allege AD&D benefits “were covered under the terms of the relevant plans
16 or describe the plan terms that would support such coverage.” *Almont Ambulatory Surgery Ctr.*,
17 99 F. Supp. 3d at 1158; *see also Brand Tarzana Surgical Inst., Inc. v. Blue Cross Blue Shield of*
18 *Ill.*, No. 18-cv-08443-DSF-AS, 2019 WL 12338413, at *1 (C.D. Cal. Apr. 22, 2019) (collecting
19 cases). In short, the complaint lacks any factual allegations identifying the AD&D benefit terms
20 or why Plaintiffs are entitled to coverage under such terms. Therefore, the Court concludes that
21 Plaintiffs have failed to state a claim for violation of § 1132(a)(1)(B).

22 Clay Lacy also argues that it is not the proper defendant for a claim for benefits under
23 § 1132(A)(1)(B) because it has “no authority to resolve benefit claims or any responsibility to
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1 pay them.” (Dkt. No. 24 at 4.) The Ninth Circuit held that “proper defendants under
2 § 1132(a)(1)(B) for improper denial of benefits at least include ERISA plans, formally
3 designated plan administrators, insurers or other entities responsible for payment of benefits, and
4 de facto plan administrators that improperly deny or cause improper denial of benefits.”

5 *Spinedex Physical Therapy USA Inc. v. United Healthcare of Ariz., Inc.*, 770 F.3d 1282, 1297
6 (9th Cir. 2014). Suits under § 1132(a)(1)(B) to recover benefits may be brought “against the
7 plan as an entity *and against the fiduciary of the plan.*” *Hall v. Lhaco, Inc.*, 140 F.3d 1190, 1194
8 (8th Cir. 1998) (emphasis added) (collecting cases). A fiduciary is any entity that “exercises any
9 discretionary authority or discretionary control respecting management of such plan or exercises
10 any authority or control respecting management or disposition of its assets . . . [or] has any
11 discretionary authority or discretionary responsibility in the administration of such plan.” 29
12 U.S.C. § 1002(21)(A); *see LifeCare Mgmt. Servs. LLC v. Ins. Mgmt. Adm’rs Inc.*, 703 F.3d 835,
13 844–845 (5th Cir. 2013) (holding that a third-party administrator that neither was designated as
14 the plan administrator nor was responsible for paying claims was nonetheless a proper defendant
15 based on the control it exercised over benefits claims processing). Plaintiffs does not allege Clay
16 Lacy had any authority or responsibility in the administration of the insurance policy.³

17 The Court DISMISSES Plaintiff’s first cause of action against both Defendants for failure
18 to state a claim upon which relief can be granted. However, the Court will grant leave to amend.
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22 ³ Plaintiffs argues in their response that “on the face of a document filed by Prudential, Clay
23 Lacy is identified as the ‘Plan Administrator,’ which is sufficient legal grounds under legal
24 precedent for this Section 501(a)(1)(B) claim.” (Dkt. No. 28 at 5–6.) But Plaintiffs previously
argued that the Court should not consider these documents. (Dkt. No. 25 at 10–11.) Plaintiffs
cannot have it both ways.

B. Breach of Fiduciary Duties Under 29 U.S.C. §§ 1104, 1105, and 1109

“To establish an action for equitable relief under . . . 29 U.S.C. § 1132(a)(3), the defendant must be an ERISA fiduciary acting in its fiduciary capacity, and must violate ERISA-imposed fiduciary obligations.” *Mathews v. Chevron Corp.*, 362 F.3d 1172, 1178 (9th Cir. 2004) (internal citation and quotations omitted). In other words, the elements Plaintiff must prove to prevail on the claim under § 1132(a)(3) for breach of fiduciary duty are: (1) Defendant Prudential and Defendant Clay Lacy were plan fiduciaries; (2) Defendant Prudential and Defendant Clay Lacy breached their fiduciary duties; and (3) the breach caused harm to Plaintiffs. *See LYMS, Inc. v. Millimaki*, No. 08-CV-1210-GPC-NLS, 2013 WL 1147534, at *9 (S.D. Cal. Mar. 19, 2013) (citing *Brosted v. Unum Life Ins. Co.*, 421 F.3d 459, 465 (7th Cir. 2005)).

1. Plan Fiduciaries

Prudential argues that Plaintiffs do not plausibly allege that it acted as an ERISA fiduciary. (Dkt. No. 14 at 6–7.) ERISA provides the following definition of a fiduciary:

[A] person is a fiduciary with respect to a plan to the extent (i) he exercises any discretionary authority or discretionary control respecting management of such plan or exercises any authority or control respecting management or disposition of its assets, (ii) he renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of such plan, or has any authority or responsibility to do so, or (iii) he has any discretionary authority or discretionary responsibility in the administration of such plan.

29 U.S.C. § 1002(21)(A); *Santomenno v. Transamerica Life Ins. Co.*, 883 F.3d 833, 837 (9th Cir. 2018). Because a person⁴ is a fiduciary under this provision only “to the extent” the person engages in the listed conduct, a person may be a fiduciary with respect to some actions but not

⁴ ERISA's definition of "person" includes "corporation[s]" and other "association[s]." 29 U.S.C. § 1102(9).

1 others. *Pegram v. Herdrich*, 530 U.S. 211, 225–226 (2000) (quoting 29 U.S.C. § 1002(21)(A));
2 see *Acosta v. Brain*, 910 F.3d 502, 519 (9th Cir. 2018) (“[W]e must distinguish between a
3 fiduciary ‘acting in connection with its fiduciary responsibilities’ with regard to the plan, as
4 opposed to the same individual or entity ‘acting in its corporate capacity.’ Only the former
5 triggers fiduciary status; the latter does not.” (internal citation omitted)). The central question is
6 “whether that person was acting as a fiduciary (that is, was performing a fiduciary function)
7 when taking the action subject to complaint.” *Pegram*, 530 U.S. at 226.

8 According to the complaint, Plaintiffs made life insurance claims to Prudential, who
9 denied the benefit claims and denied the subsequent appeals. (See Dkt. No. 1 at 4.) Thus, it has
10 been sufficiently alleged that Prudential processes and pays claims to plan beneficiaries and
11 conducts the first-level appeal for benefit denials. This requires Prudential to interpret the life
12 insurance policy to determine whether to pay claims and whether to uphold benefit denials on
13 appeal. In short, Prudential has the authority to grant, deny, and review denied claims. Any one
14 of these abilities would be sufficient to confer fiduciary status under ERISA. See *King v. Blue*
15 *Cross and Blue Shield of Ill.*, 871 F.3d 730, 746 (9th Cir. 2017). Thus, Plaintiffs plausibly allege
16 Prudential acted as a fiduciary.

17 However, as stated above, Plaintiffs fail to allege facts as to whether Clay Lacy acted as
18 an ERISA fiduciary. Plaintiffs’ second and third causes of action against Clay Lacy are
19 DISMISSED on this basis.

20 2. Breach of Fiduciary Duties

21 Notwithstanding Defendants’ fiduciary status, Plaintiffs must further plead plausible facts
22 that Defendants breached their fiduciary duties. Plaintiffs claim that Defendants breached their
23 fiduciary duties by: (1) failing to pay benefits to Plaintiffs with knowledge that Plaintiffs were
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1 entitled to such benefits; (2) collecting life insurance premiums knowing Towe and Berliner
2 could “never benefit from the policy’s illusory coverage”; (3) placing their own interests ahead
3 of Plaintiffs and the life insurance policy; and further breached their (4) duty of due care, *see* 29
4 U.S.C. § 1104(a)(1)(B), and (5) duty of loyalty, *see* 29 U.S.C. § 1104(a)(1)(A). (Dkt. No. 1 at
5 7.) Plaintiffs allege that because of Defendants’ breaches, they “have not received the benefits to
6 which they are entitled to under the life insurance plan.” (*Id.*) Though Plaintiffs are not clear as
7 to *how* Defendants breached each of these fiduciary duties, the Court construes the complaint as
8 alleging Defendants breached these duties by not acting in accordance with the life insurance
9 policy plan and failing to pay AD&D benefits. Because Plaintiffs fail to state a claim as to
10 whether they are entitled to AD&D benefits under ERISA, Plaintiffs’ theory that Defendants
11 breached their fiduciary duties by failing to pay such benefits must also be dismissed for failure
12 to state a claim.⁵ Therefore, the Court DISMISSES Plaintiffs’ second and third causes of action
13 against both Defendants with leave to amend.

14 **C. State Law Claims: UCL and WCPA**

15 Plaintiffs allege Defendants violated the UCL by “violat[ing] the plain language of
16 ERISA[;]” purchasing and issuing a life insurance policy that barred any aviation-related death;
17 and advertising “life insurance” to its employees different than commonly understood by the
18 average person. (Dkt. No. 1 at 9–10.) The UCL prohibits “unfair competition” which includes
19 “any unlawful, unfair or fraudulent business act[.]” Cal. Bus. & Prof. Code § 17200. Plaintiffs

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21 ⁵ Defendants argues Plaintiffs’ “claim-decision-based fiduciary breach also fail because they
22 impermissibly repackage the § 1132(a)(1)(B) claim for benefits.” (Dkt. Nos. 14 at 11; 24 at 6–
23 7.) Because the Court dismisses Plaintiffs’ breach of fiduciary duty claims for failure to state a
24 claim, the Court does not reach this argument. However, the Court notes a plaintiff could plead
alternative theories of recovery under § 1132(a)(1)(B) and § 1132(a)(3), so long as the plaintiff
does not ultimately “obtain[] double recoveries.” *Moyle v. Liberty Mut. Ret. Benefit Plan*, 823
F.3d 948, 960 (9th Cir. 2016).

1 further allege Defendants violated the WCPA by “violat[ing] ERISA” and engaged in “unfair
2 and deceptive” conduct which injured Plaintiffs’ property. (*Id.* at 10.) Defendants argue that
3 both UCL and WCPA are preempted by ERISA. (Dkt. Nos. 14 at 12–14; 24 at 7–8.)

4 “ERISA expressly preempts ‘any and all State laws insofar as they may now or hereafter
5 relate to any employee benefit plan.’” *Depot, Inc. v. Caring for Montanans, Inc.*, 915 F.3d 643,
6 665 (9th Cir. 2019) (quoting 29 U.S.C. § 1144(a)). “To provide some ‘workable standards’ for
7 determining the scope of § 1144(a), the [Supreme] Court has identified ‘two categories’ of state-
8 law claims that ‘relate to’ an ERISA plan—claims that have a ‘reference to’ an ERISA plan, and
9 claims that have ‘an impermissible “connection with”’ an ERISA plan.” *Depot, Inc.*, 915 F.3d at
10 665 (quoting *Gobeille v. Liberty Mut. Ins. Co.*, 577 U.S. 312, 319 (2016)) (citation omitted). “A
11 state-law claim has a ‘reference to’ an ERISA plan if it is premised on the existence of an ERISA
12 plan or if the existence of the plan is essential to the claim’s survival.” *Depot, Inc.*, 915 F.3d at
13 665 (citation omitted, internal quotation marks omitted). “A claim has an impermissible
14 ‘connection with’ an ERISA plan if it governs a central matter of plan administration or
15 interferes with nationally uniform plan administration, . . . or if it bears on an ERISA-regulated
16 relationship[.]” *Id.* at 666 (internal citation and quotation marks omitted). Courts “look to the
17 objectives of the ERISA statute as a guide, bearing in mind a starting presumption that Congress
18 did not intend to supplant state laws regulating a subject of traditional state power unless that
19 power amounts to a direct regulation of a fundamental ERISA function.” *Id.* (citation and
20 internal quotation marks omitted). “ERISA’s preemption provision functions even when the
21 state action purports to authorize a remedy unavailable under the federal provision.” *Wise v.*
22 *Verizon Commc’ns, Inc.*, 600 F.3d 1180, 1190 (9th Cir. 2010) (citation omitted, cleaned up).

1 The savings clause protects from express preemption “any law of any State which regulates
2 insurance, banking, or securities.” 29 U.S.C. § 1144(b)(2)(A).

3 According to complete preemption, “any state-law cause of action that duplicates,
4 supplements, or supplants the ERISA civil enforcement remedy conflicts with the clear
5 congressional intent to make the ERISA remedy exclusive and is therefore barred[.]” *Depot,*
6 *Inc.*, 915 F.3d at 667 (citation omitted). Complete “preemption can bar a state-law claim even if
7 the elements of the state cause of action do not precisely duplicate the elements of an ERISA
8 claim, . . . but a state-law claim is not preempted if it reflects an attempt to remedy a violation of
9 a legal duty independent of ERISA[.]” *Id.* (citation omitted, cleaned up). “State-law claims are
10 based on other independent legal duties when they are in no way based on an obligation under an
11 ERISA plan and would exist whether or not an ERISA plan existed.” *Id.* (citation omitted).

12 Defendants argue Plaintiffs’ state law claims are expressly preempted because they seek
13 recovery for loss of insurance benefits. (Dkt. Nos. 14 at 13; 24 at 7–8.) They further argue that
14 the state law claims both have an impermissible reference to the ERISA plan, as both are
15 premised on the existence of the insurance policy. (*Id.*) The Court agrees with Defendants that
16 where Plaintiffs’ state law claims seek recovery for the loss of insurance benefits, the claim is
17 expressly preempted by ERISA. *Wise*, 600 F.3d at 1191 (“The state law theories of fraud,
18 misrepresentation, and negligence all depend on the existence of an ERISA-covered plan to
19 demonstrate that [the plaintiff] suffered damages: the loss of insurance benefits.”). Plaintiffs are
20 seeking to secure allegedly covered benefits through the alternative means of state law claims.

21 (See Dkt. No. 1 at 9–10.) Plaintiff explicitly states that Defendants’ acts “constitute unlawful
22 business acts or practices [under the UCL] because Defendants violated the plain language of

1 ERISA,” and Defendants are liable under WCPA because “Defendants’ conduct violates
2 ERISA.” (*Id.*)

3 Moreover, Plaintiffs concede the state-law claims are preempted to the extent that ERISA
4 applies. (See Dkt. Nos. 28 at 14; 25 at 24.) However, they argue the state-law claims are
5 alternatively pled and remain valid “until and unless the defendants meet their burden to show
6 that ERISA applies.” (Dkt. No. 28 at 14; *see also* Dkt. No. 25 at 24.) At the same time,
7 Plaintiffs’ first cause of action unambiguously asserts their claim is “to recover benefits, enforce
8 rights, and/or clarify rights to benefits under ERISA.” (Dkt. No. 1 at 5.) Neither Defendant
9 asserts Plaintiffs claims are not governed by ERISA.

10 The Court therefore DISMISSES Plaintiff’s fourth and fifth causes of action with
11 prejudice.

12 **D. Leave to Amend**

13 Leave to amend should be granted “freely” when justice so requires. Fed. R. Civ. P.
14 15(a). The Ninth Circuit maintains a policy of “extreme liberality generally in favoring
15 amendments to pleadings.” *Rosenberg Bros. & Co. v. Arnold*, 283 F.2d 406, 406 (9th Cir. 1960).
16 Reasons “such as undue delay, bad faith or dilatory motive . . . repeated failure to cure
17 deficiencies . . . undue prejudice to the opposing party . . . [or] futility” may support denial of
18 leave to amend. *Foman v. Davis*, 371 U.S. 178, 182 (1962). A district court “should grant leave
19 to amend even if no request to amend the pleading was made, unless it determines that the
20 pleading could not possibly be cured by the allegation of other facts.” *Cook, Perkiss and Liehe,*
21 *Inc. v. N. Cal. Collection Servs.*, 911 F.2d 242, 247 (9th Cir. 1990).

22 Here, Plaintiffs have not requested leave to amend. Nonetheless, this is the first time the
23 Court has ruled on the sufficiency of Plaintiffs’ complaint, and it is possible the deficiencies the
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1 Court has identified above may be cured by the allegation of additional facts. *Id.* Accordingly,
2 Plaintiffs are granted leave to amend.

3 **IV CONCLUSION**

4 Accordingly, and having considered Defendants' motions to dismiss, the briefing of the
5 parties, and the remainder of the record, the Court finds and ORDERS that Prudential's and Clay
6 Lacy's motions to dismiss (Dkt. Nos. 14, 24) are GRANTED. Any amended complaint must be
7 filed no later than March 3, 2026.

8 Dated this 17th day of February, 2026.

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David G. Estudillo
United States District Judge