UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WASHINGTON

CARRIE ADKINS, Plaintiff, v. LIFE INSURANCE COMPANY OF NORTH AMERICA, Defendant.	NO. 4:20-CV-5104-TOR ORDER GRANTING DEFENDANT'S MOTION FOR RECONSIDERATION

BEFORE THE COURT is Defendant's Motion for Reconsideration (ECF No. 26). This matter was submitted for consideration with telephonic oral argument on February 10, 2021. Stephania C. Denton appeared on behalf of Defendant and Mel Crawford appeared on behalf of Plaintiff. The Court has reviewed the record and files herein, and is fully informed. For the reasons discussed below Defendant's Motion for Reconsideration (ECF No. 26) is GRANTED.

BACKGROUND

This case relates to Plaintiff's action to recover long-term disability benefits allegedly owing to Plaintiff under Section 502(a) of the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. § 1132(a). The present motion relates to the parties' ongoing discovery dispute. On January 13, 2021, the Court heard oral argument regarding the parties' dispute over certain discovery materials that Plaintiff alleges relate to her claim for breach of fiduciary duty under 29 U.S.C. § 1132(a)(3). ECF No. 26 at 4. The Court issued an oral ruling that directed Defendant to produce the requested information. ECF No. 21. On February 8, 2021, Defendant filed the instant Motion for Reconsideration. ECF No. 26. The Court heard oral argument on Defendant's motion on February 10, 2021 but reserved a ruling to allow the parties time to fully brief the issue. ECF No. 30.

DISCUSSION

Federal Rule of Civil Procedure 54(b) governs reconsideration of a non-final order. An order that resolves fewer than all the claims among the parties – that is, a non-final order – "may be revised at any time before the entry of judgment adjudicating all the claims and all the parties' rights and liabilities." Fed. R. Civ. P. 54(b); *Credit Suisse First Boston Corp. v. Grunwald*, 400 F.3d 1119, 1124 (9th Cir. 2005). Where reconsideration of a non-final order is sought, the court has "inherent jurisdiction to modify, alter, or revoke" its order. *United States v.*

Martin, 226 F.3d 1042, 1049 (9th Cir. 2000).

Defendant urges the Court to reconsider its prior ruling on the grounds that Defendant cannot reasonably obtain the information sought and because Plaintiff has not met her burden demonstrating the need to extend discovery beyond the bounds of the usual ERISA *de novo* review. ECF Nos. 26 at 5-10. Plaintiff argues the typically limited discovery in a *de novo* ERISA benefits determination does not apply to claims for breach of fiduciary duty under 29 U.S.C. § 1132(a)(3). ECF No. 34 at 2-5.

The Court accepts Defendant's representation that it does not keep the information sought, would have to conduct a physical review of every claim file during the time frame at issue to see whether Dr. Mendelssohn was involved and how much her employer was paid for her services. Even then, such a process would not reveal the precise relevant information Plaintiff seeks. The Court finds such process too expensive and burdensome, given that the information would more easily be obtained directly from Dr. Mendelssohn or her employer.

As Plaintiff acknowledged during the telephonic hearing, her claim for breach of fiduciary duty is likely contingent upon the success of her claim for award of benefits under 29 U.S.C. § 1132(a)(1)(B). Having determined Plaintiff is not entitled to an award of benefits under § 1132(a)(1)(B), the Court finds additional discovery pertaining to her claim for breach of fiduciary duty is

unnecessary as her claim under § 1132(a)(3) will likely fail. *See Wise v. MAXIMUS Fed. Servs., Inc.,* 478 F. Supp. 3d 873, 897 (N.D. Cal. 2020); *Talbot v. Reliance Standard Life Ins. Co.*, No. CV-14-00231-PHX-DJH, 2018 WL 10419233, at *20 (D. Ariz. Feb. 7, 2018), *aff'd,* 790 F. App'x 129 (9th Cir. 2020); *Mullin v. Scottsdale Healthcare Corp. Long Term Disability Plan*, No. CV-15-01547-PHX-DLR, 2016 WL 107838, at *3 (D. Ariz. Jan. 11, 2016). Consequently, the Court reverses its prior order directing Defendant to produce discovery (ECF No. 21).

ACCORDINGLY, IT IS HEREBY ORDERED:

Defendant's Motion for Reconsideration (ECF No. 26) is **GRANTED**.

The District Court Executive is directed to enter this Order and furnish copies to counsel.

DATED March 1, 2021.

THOMAS O. RICE
United States District Judge