

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
TACOMA DIVISION

JESSE AYRES,

Plaintiff,

v.

LIFE INSURANCE COMPANY OF  
NORTH AMERICA,

Defendant.

Civil Action No.

**COMPLAINT FOR RECOVERY  
OF PLAN BENEFITS AND FOR  
THE ENFORCEMENT OF  
RIGHTS UNDER ERISA**

Plaintiff, Jesse Ayres, makes the following representations to the Court for the purpose of obtaining relief from Defendant’s refusal to pay long term disability (LTD) benefits due under an ERISA employee benefit plan(s), of obtaining relief from Defendants’ failure to follow reasonable claims procedures by refusing to make a timely decision on Plaintiff’s claim for LTD benefits, and for Defendants’ other violations of the Employee Retirement Security Act of 1974 (“ERISA”):

**JURISDICTION AND VENUE**

1. This Court’s jurisdiction is invoked pursuant to 28 U.S.C. § 1337 and 29 U.S.C. § 1132(e) (ERISA § 502(e)). Plaintiff’s claims “relate to” “employee welfare benefits plan[s]” as defined by ERISA, 29 U.S.C. § 1001 *et seq.* and the subject Benefit Plan constitutes “plan[s] under ERISA.”

2. The ERISA statute, at 29 U.S.C. § 1133, as well as Department of Labor regulations, at 29 C.F.R. § 2560.503-1 provide a mechanism for administrative or internal appeal of benefits denials. This matter is now properly before the Court because Plaintiff’s long term disability claim (“LTD Claim”) is deemed denied without the exercise of discretion due to

Defendant's failure to strictly adhere to Department of Labor's ERISA Claims Procedure Regulations. *See* 29 C.F.R. § 2560.503-1(l)

3. Venue is proper within the Western District of Washington pursuant to 29 U.S.C. § 1132(e)(2) as the ERISA employee benefit plan at issue in this matter is administered in this district, this district is where the breach occurred, and the defendant may be found in this district.

### **PARTIES**

4. Plaintiff, Jesse Ayres, (hereinafter "Plaintiff"), is a resident of Colwitz County, Washington.

5. Defendant Life Insurance Company of North America (hereinafter "LINA"), is an insurance company authorized to transact the business of insurance in this state, and may be served with process through the Washington Office of the Insurance Commissioner, P.O. Box 40255, Olympia, WA 98504-0255.

6. Upon information and belief, Defendant New York Life Insurance Company (hereinafter "NY Life"), is an insurance company authorized to transact the business of insurance in this state, and may be served with process through the Washington Office of the Insurance Commissioner, P.O. Box 40255, Olympia, WA 98504-0255

7. Upon information and belief, the LTD Policy was originally insured and administered by LINA, and NY Life took over administrator of the LTD Policy following NY Life's acquisition of Cigna's group life, accident, and disability insurance business in 2019

8. Upon information and belief, Defendant LINA is still the party obligated to pay benefits and determine eligibility for benefits under Group Long Term Disability Policy No. VDT-602237, issued by LINA to North American Pipe & Steel, Inc.

**FACTS**

9. Plaintiff was employed by North American Pipe & Steel, Inc as a Warehouse Processor and Machine Operator.

10. Because of his employment, Plaintiff was enrolled in North American Pipe & Steel, Inc.'s Long Term Disability Plan, which is an ERISA employee welfare benefit plan (the "LTD Plan").

11. Benefits under the LTD Plan are insured by LINA under Group Long Term Disability Policy No. VDT-602237, issued by LINA to North American Pipe & Steel, Inc.

12. Plaintiff is a participant or beneficiary of the Plan.

13. Plaintiff became disabled on or around November 3, 2020, while covered under the Plan, because of impairments stemming from post-concussion syndrome and a diffuse axonal brain injury and complicated history of additional traumatic brain injuries.

14. Plaintiff also suffers from disabling behavioral health impairments caused by major depressive disorder, post-traumatic stress disorder, and attention deficit hyperactivity disorder.

15. According to his treating providers, Plaintiff's post-concussion syndrome, diffuse axonal injury, and the related cognitive impairments are separate from his behavioral health conditions and independently disable Plaintiff from his occupation and all other occupations.

16. Plaintiff has been and continues to be disabled as defined by the provisions of the Plan and relevant policies.

17. Plaintiff filed an application for LTD benefits under the Plan.

18. Defendants initially denied Plaintiff's application and did not award any benefits.

19. Plaintiff timely appealed the denial of his benefits and submitted medical evidence, including statements from his treating providers, supporting disability due to his post-concussion syndrome and diffuse axonal brain injury.

20. By letter dated July 27, 2022, Defendants LINA and NY Life overturned the denial and awarded benefits to Plaintiff based on his behavioral health conditions rather than his post-concussion syndrome and diffuse axonal brain injury.

21. In the letter, Defendants identified Plaintiff's primary diagnosis as Major Depressive Disorder and explained that benefits would be paid until January 31, 2023, which is the maximum amount payable for disabilities caused by a behavioral health disorder.

22. Plaintiff appealed the denial of his claim for benefits due to physical disability and submitted supporting evidence to Defendants LINA and NY Life on February 2, 2023, including an opinion form from his treating physician outlining specific restrictions and limitations caused by his post-concussion syndrome and diffuse axonal brain injury.

23. As an ERISA fiduciary, Defendants LINA and NY Life had until March 19, 2023—forty-five (45) days from February 2, 2023—to render an appeal decision or provide Plaintiff with written notice of special circumstances necessitating an extension of time to finish its review.

24. By letter dated March 17, 2023, Defendants informed Plaintiff that “Mr. Ayres claim is currently open and remains active, therefore, appeal rights do not apply at this time.”

25. Defendants sent another letter dated March 22, 2023, requesting updated medical records from Plaintiff.

26. Plaintiff responded to Defendants on March 31, 2023, and provided another copy of the medical records Plaintiff submitted with his appeal on February 2, 2023.

27. In that letter, Plaintiff also asked for clarification on the status of his claim and explained that he understood Defendants' March 17<sup>th</sup> letter as confirming his claim for disability due to physical illness was approved. Plaintiff asked Defendants to confirm his interpretation and promptly pay all benefits due since January 31, 2023. If Defendants did not consider Plaintiff's claim approved, Plaintiff explained that his February 2<sup>nd</sup> appeal was effective and Defendants failed to make a timely decision in violation of their duties as ERISA fiduciaries.

28. Defendants responded on April 3, 2023—over sixty (60) after Plaintiff appealed the denial of his claim for disability due to physical illness—stating that “no determination has been made at this time.”

29. Under 29 C.F.R. § 2560.503-1(f)(3), Defendants were required to notify Plaintiff of an adverse benefit determination or provide written notice of an extension indicating the special circumstances requiring an extension of time prior to “the expiration of the initial 45-day period.” *See* 29 C.F.R. § 2560.503-1(f)(1)(i) & (3)

30. 29 C.F.R. § 2560.503-1(l) states that an ERISA administrator's failure to strictly adhere to all requirements of the regulation with respect to a claim will result in the claimant being deemed denied without the exercise of discretion. *See* 29 C.F.R. § 2560.503-1 (1)-(2).

31. Accordingly, under 29 C.F.R. § 2560.503-1 (1)-(2), Plaintiff pursues his available remedies under § 502(a) of the ERISA on the basis that Defendants failed to provide a reasonable claims procedure that would yield a timely decision on the merits of the claim.

32. Plaintiff's administrative remedies under the Plan were deemed exhausted as a result of Defendants' violations of 29 C.F.R. § 2560.503-1 outlined above.

33. Because of Defendants' failure to strictly adhere to all the requirements of 29 C.F.R. § 2560.503-1, Plaintiff's LTD Claim is deemed denied on review without the exercise of discretion.

34. Alternatively, the Court should review Defendants' decision de novo due to Washington's ban on discretionary clauses in disability insurance policies. *See* WAC 284-50-321.

35. Defendants would pay any benefits due out of their own funds.

36. Defendants owed Plaintiff duties as fiduciaries of an ERISA Plan, including the duty of loyalty.

37. Defendants were under a perpetual conflict of interest because the benefits would have been paid out of their own funds.

38. Defendants allowed their concern over their own funds to influence the decision-making.

39. Defendants breached their fiduciary duties to Plaintiff, including the duty of loyalty.

**FIRST CAUSE OF ACTION**  
**FOR PLAN BENEFITS PURSUANT TO 29 U.S.C. § 1132(a)(1)(B)**

PLAINTIFF incorporates the allegations contained in the above paragraphs as if fully stated herein and says further that:

40. Under the terms of the Plan and policy, Defendants agreed to provide Plaintiff with LTD benefits in the event that Plaintiff became disabled as defined by the LTD Plan.

41. Plaintiff is disabled and entitled to benefits under the terms of the LTD Plan.

42. Defendants failed to provide benefits due under the terms of the LTD Plan and failed to make a timely decision, and these actions constitute breaches of the LTD Plan.

43. The decisions to deny benefits and the failure to make a timely decision were wrong under the terms of the LTD Plan.

44. The decisions to deny benefits and the failure to make a timely decision were arbitrary and capricious.

45. The decisions to deny benefits and the failure to make a timely decision were influenced by the Defendants' financial conflict of interest.

46. The decisions to deny benefits are not supported by substantial evidence in the record.

47. As a direct and proximate result of the aforementioned conduct of the Defendants in failing to provide benefits for Plaintiff's disability, Plaintiff has been damaged in the amount equal to the amount of benefits to which he would have been entitled to under the Plan.

48. As a direct and proximate result of the aforementioned conduct of the Defendants in failing to provide benefits for Plaintiff's disability, Plaintiff has suffered, and will continue to suffer in the future, damages under the Plan, plus interest and other damages, for a total amount to be determined.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff requests that this Court grant him the following relief in this case:

#### **On Plaintiff's First Cause of Action:**

1. A finding in favor of Plaintiff against the Defendants;
2. Damages in the amount equal to the disability income benefits to which he was entitled through the date of judgment, for unpaid benefits pursuant to 29 U.S.C. § 1132(a)(1)(B);
3. Prejudgment and postjudgment interest;
4. An Order requiring the Plan or appropriate Plan fiduciaries to pay continuing benefits in the future so long as Plaintiff remains disabled under the terms of the Plan, as well as

any other collateral benefits to which he might be entitled on the basis of being disabled under the LTD plan.

5. Plaintiff's reasonable attorney fees and costs; and
6. Such other relief as this court deems just and proper.

Dated this 27<sup>th</sup> day of April, 2023.

Respectfully submitted,

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*\* Pro Hac Vice Application to be submitted promptly*

ATTORNEYS FOR PLAINTIFF