

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
_____ DIVISION

NAME)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.: _____
)	
NAME)	By: Elizabeth K. Dillon
)	United States District Judge
Defendant.)	

SCHEDULING ORDER

This case appears to be an action seeking benefits under the provisions of an employee benefit plan pursuant to the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001—1461 (ERISA). Based on that assumption, and pursuant to Rule 16(b) of the Federal Rules of Civil Procedure, the court proposes the following as a scheduling order. Unless any party objects within 10 days, this will constitute the scheduling order applicable to the case.

It is ORDERED as follows:

1. In the event any discovery is appropriate, it will be completed within 60 days of this order. Discovery material is not to be filed unless and until it is actually used in the proceedings.
2. The employee benefit plan administrator or fiduciary must file the administrative record in the case with the court, with a copy served upon opposing counsel, within 60 days of this order.
3. All parties are deemed to have moved for summary judgment in their respective favor based upon the administrative record.

4. The plaintiff must file a brief, stating the grounds on which benefits or other relief are claimed, within 30 days after the administrative record is served upon the plaintiff. At the same time, the plaintiff must file any objections to the authenticity of the administrative record.

5. The defendant must file a brief in response within 30 days after service of the plaintiff's brief.

6. If the plaintiff desires, the plaintiff may file a reply brief within 7 days after service of the defendant's brief.

7. If any party desires oral argument in the case, it is the responsibility of counsel to advise the court promptly after the last filing described above. Any party requesting a hearing must contact Miriam Frazier, Judicial Assistant, by email (miriamf@vawd.uscourts.gov) or telephone (540-857-5120) to set a hearing date. If the parties do not promptly schedule a hearing, the court will rule on the motions without a hearing. Nondispositive motions, including motions for enlargement of time, whether or not opposed, may be acted upon at any time by the court without awaiting a response.

8. By written stipulation signed by all counsel and filed with the court, the parties may adjust the deadlines set forth above, except that no extension greater than 60 days of any particular deadline date will be permitted without permission of the court.

9. The parties are encouraged to engage in settlement discussions. Upon motion of any party, the court will refer the case to a magistrate judge to conduct mediation.

It is so ORDERED.