

OCT 28 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SPENCER RECOVERY CENTERS,
INC., a California corporation individually
and as assignee of and successor in interest
to James Youngblood, the plan participant
and/or beneficiary and claimant,

Plaintiff - Appellee,

v.

EVAL COMPANY OF AMERICA
MEDICAL PLAN, an Employee Welfare
Benefit Plan, established pursuant to 29
USC 1001 et seq (ERISA),

Defendant - Appellant.

No. 08-55469

D.C. No. 2:02-cv-04270-CBM-
CW

MEMORANDUM*

SPENCER RECOVERY CENTERS,
INC., a California corporation individually
and as Assignee of and successor in
interest to Alvin Morita, the plan
participant and/or beneficiary and
claimant,

Plaintiff - Appellee,

v.

No. 08-55478

D.C. No. 2:02-cv-04272-CBM-
CW

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

MARUKYO USA INC HEALTH PLAN,
an Employee welfare Benefit Plan,
established pursuant to 29 USC 1001 et
seq (ERISA,

Defendant - Appellant.

SPENCER RECOVERY CENTERS,
INC., a California corporation individually
and as Assignee of and successor in
interest to James Youngblood, the plan
participant and/or beneficiary and
claimant,

Plaintiff - Appellee,

v.

MARUKYO USA INC HEALTH PLAN,
an Employee welfare Benefit Plan,
established pursuant to 29 USC 1001 et
seq (ERISA,

Defendant - Appellant.

No. 08-56078

D.C. No. 2:02-cv-04272-CBM-
CW

SPENCER RECOVERY CENTERS,
INC., a California corporation individually
and as assignee of and successor in interest
to James Youngblood, the plan participant
and/or beneficiary and claimant,

Plaintiff - Appellee,

v.

No. 08-56081

D.C. No. 2:02-cv-04270-CBM-
CW

EVAL COMPANY OF AMERICA
MEDICAL PLAN, an Employee Welfare
Benefit Plan, established pursuant to 29
USC 1001 et seq (ERISA,

Defendant - Appellant.

Appeal from the United States District Court
for the Central District of California
Consuelo B. Marshall, District Judge, Presiding

Argued and Submitted October 7, 2009
Pasadena, California

Before: PREGERSON, REINHARDT and WARDLAW, Circuit Judges.

Plaintiff-Appellee, Spencer Recovery Centers, Inc. (“Spencer”), filed wrongful denial of benefits claims against Defendants-Appellants Eval Company Medical Plan and Marukyo USA Inc. Health Plan (the “Plans”) under the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. §§ 1001-1381. The district court found that the Plans wrongfully denied the benefit claims, and it ordered the Plans to pay the claims. The district court also ordered the Plans to pay pre-judgment interest and attorneys’ fees and costs. We have jurisdiction under 28 U.S.C. §1291, and we affirm for the reasons stated by the district court.

Spencer has also requested attorneys’ fees and costs associated with this appeal pursuant to 29 U.S.C. § 1132(g). We ordinarily grant a prevailing

beneficiary in an ERISA action reasonable attorneys' fees and costs, absent special circumstances cautioning against such a grant. *See Canseco v. Construction*

Laborers Pension Trust for S. Cal., 93 F.3d 600, 609-610 (9th Cir. 1996)

(recognizing our discretionary power to award fees under 29 U.S.C. § 1132(g)(1)).

In this case, Spencer is standing in the shoes of the Plans' beneficiaries, as their assignee of and successor in interest. Spencer has prevailed on appeal, and there are no special circumstances warranting the denial of the request. Accordingly, we grant Spencer's request for attorneys' fees and costs and refer the case to the Appellate Commissioner for a determination of the reasonable amount of fees and costs.

Judgment of the district court AFFIRMED. Spencer's request for attorneys fees and costs associated with this appeal GRANTED.