

MICHAEL B. HORROW (SBN 162917)  
SCOTT E. CALVERT (SBN 210787)  
DONAHUE & HORROW, LLP  
1960 E. Grand Avenue, Suite 1215  
El Segundo, California 90245  
Telephone: (310) 322-0300  
Facsimile: (310) 322-0302  
Email: mhorrow@donahuehorrow.com  
Email: scalvert@donahuehorrow.com

Attorney for Plaintiff  
WENDY HAUT

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

WENDY HAUT

Plaintiff,

vs.

RELIANCE STANDARD LIFE  
INSURANCE COMPANY; and  
CENGAGE LEARNING, INC. GROUP  
LONG TERM DISABILITY PLAN,

Defendants.

Case No.:

**COMPLAINT FOR BENEFITS  
UNDER A GROUP DISABILITY  
EMPLOYEE BENEFIT PLAN**

Plaintiff alleges as follows:

1. This Court's jurisdiction is invoked pursuant to 28 U.S.C. §§1331, 1337 and 29 U.S.C. § 1132(a), (e), (f) and (g), of the Employee Retirement Income Security Act of 1974, 29 U.S.C. §1001, et seq. (hereafter "ERISA") as it involves a claim by Plaintiff for Disability benefits under an employee benefit plan regulated and governed under ERISA. Jurisdiction is predicated under these code sections as well as 28 U.S.C. §1331 as this action involves a federal question.

2. The events or omissions giving rise to Plaintiff's claim occurred in this judicial district, thus venue is proper here pursuant to 28 U.S.C. § 1391(b)(2), and the ends of justice so require.

3. The ERISA statute at 29 U.S.C. § 1133, in accordance with Regulations

DONAHUE & HORROW, LLP

DONAHUE & HORROW, LLP

1 of the Secretary of Labor, provides a mechanism for internal appeal of benefit  
2 denials. Those avenues of appeal have been exhausted.

3 4. Plaintiff is informed and believes and thereon alleges that Defendant,  
4 Cengage Learning, Inc. Group Long Term Disability Plan is an employee welfare  
5 benefit plan established and maintained by Cengage Learning, Inc., a Delaware  
6 corporation, to provide its employees with monthly disability income insurance  
7 protection, and, is the Plan Administrator.

8 5. Plaintiff alleges upon information and belief that Defendant, Reliance  
9 Standard Life Insurance Company (hereafter “RELIANCE STANDARD”), is, and at  
10 all relevant times was, a corporation duly organized and existing under and by virtue  
11 of the laws of the State of Illinois and authorized to transact and transacting the  
12 business of insurance in this state.

13 6. Plaintiff WENDY HAUT (hereafter “Plaintiff”) is a resident and citizen  
14 of the State of California, an employee of Cengage Learning, Inc. and a participant in  
15 the employee benefit plan.

16 7. Defendant RELIANCE STANDARD issued Group Disability Income  
17 Policy Number LTD 123610 to Cengage Learning, Inc. and the eligible participants  
18 and beneficiaries of the Plan.

19 8. Based upon information and belief, the Plan provides a disability benefit  
20 based upon Plaintiff’s pre-disability monthly earnings following a one-hundred and  
21 eighty-day Elimination Period.

22 9. Based upon information and belief, per the Plan “Totally Disabled” and  
23 “Total Disability” mean, that as a result of an Injury or Sickness:

- 24 • During the Elimination Period and for the first 24 months for which a  
25 Monthly Benefit is payable, an Insured cannot perform the material  
26 duties of his/her Regular Occupation;
- 27 • After a Monthly Benefit has been paid for 24 months, an Insured cannot  
28 perform the material duties of Any Occupation.

1           10. On or about September 19, 2020, Plaintiff became disabled as defined  
2 by the plan.

3           11. Based upon information and belief, Plaintiff timely filed a claim for  
4 benefits under the subject plan.

5           12. On or about December 6, 2020, Dr. Brendan Courneene expressed his  
6 support for Plaintiff’s disability claim: “Based on minimal improvement since the  
7 onset of symptoms, it is my clinical recommendation that Wendy abstain from  
8 strenuous activity including work related activities until fatigue improves and  
9 complete diagnosis of secondary illness is determined.”

10           13. On or about December 16, 2020, Plaintiff’s treating neurologist, Dr.  
11 Marisa Chang prepared a letter regarding Plaintiff’s disability status:

- 12           • Ms. Haut suffers from multiple post COVID multi-organ dysfunction  
13 including severe diarrhea, cognitive dysfunction, word finding  
14 difficulties, confusion, balance difficulties, incontinence, memory issues,  
15 brain fog, difficulty multi-tasking and difficulty with attention and  
16 concentration.
- 17           • I do not believe Ms. Haut is able to work.
- 18           • I believe it is medically necessary for her to be on short-term disability  
19 until at least 06/01/2021.

20           14. On or about April 19, 2021, Dr. Maggie Ney prepared a letter in support  
21 of Plaintiff’s disability:

- 22           • I am encouraging my patient, Wendy Haut (DOB: 2.28.1973), to stop  
23 working and apply for long term disability as she recovers from the  
24 debilitating and lasting side effects from the Coronavirus Virus.
- 25           • She has been struggling with profound fatigue and extreme cognitive  
26 difficulties that make it impossible for her to do her job.

27           15. On or about May 10, 2021, Plaintiff’s neurologist, Marisa Chang, MD, also  
28 wrote a letter of support of Plaintiff’s disability:

- 1 • I am the primary treating neurologist of Ms. Haut.
- 2 • Ms. Haut [sp] suffers from severe post-COVID syndrome and is a post-
- 3 COVID long hauler.
- 4 • The patient suffers from multiple severe neurologic deficits including
- 5 short-term memory loss, brain fog, difficulty multitasking, severe
- 6 fatigue, attention and concentration difficulties.
- 7 • She is unable to perform executive functioning such as making
- 8 decisions, following through on tasks and is having difficulty
- 9 modulating her emotions.
- 10 • She cannot perform her activities of daily living including shopping for
- 11 groceries, paying bills or managing time.
- 12 • Moreover, she suffers from chronic headaches, insomnia, and balance
- 13 issues. She has autonomic instability with heart rate and blood pressure
- 14 instability. In addition, the patient has diffuse weakness, difficulties
- 15 with dexterity and incontinence.
- 16 • I believe Ms. Haut is unable to work due to neurological complications
- 17 of post-COVID syndrome and qualifies for long-term disability.

18 16. On or about May 17, 2021, Defendant RELIANCE STANDARD denied  
19 Plaintiff's claim for Long Term Disability benefits.

20 17. On or about June 7, 2021, neuropsychologist Martin Stern, Ph.D.  
21 prepared a report regarding Plaintiff's neuropsychological evaluation. The  
22 conclusion was the testing was consistent with mild cognitive dysfunction.

23 18. Based upon information and belief, Plaintiff filed a timely appeal of the  
24 denial of her claim.

25 19. On or about November 8, 2021, Dr. Eric Mizrahi prepared an Interim  
26 Assessment Report regarding Plaintiff's current status:

- 27 • The following is to attest that I have served as Wendy Haut's primary
- 28 care physician since she contracted COVID-19 on 09/19/2020.

- 1           • She developed an aggressive course with devastating and rapid
- 2           deterioration requiring near ICU level care at home.
- 3           • She took nearly three months to recover and wean off oxygen and is still
- 4           weaning steroids.
- 5           • At this point in time, I am mostly concerned about her relentless asthma
- 6           and chronic cough that did not exist prior to this illness and her physical
- 7           and mental decompensation.
- 8           • As a former top software sales executive, she had to resign from that
- 9           position due to her inability to keep up with the job demands and
- 10          attention to detail required in that industry.
- 11          • To date she experiences constant mental fog and forgetfulness,
- 12          especially short term memory, and thought processing.
- 13          • She is literally incapable of assuming her responsibilities of daily living
- 14          without assistance.

15           20. On or about November 4, 2021, Plaintiff consulted with Dr. Sara  
16 Ghandehari regarding Outpatient Pulmonary Rehabilitation. Plaintiff remained  
17 symptomatic from her prior COVID-19 infection with cough and tachycardia.

18           21. On or about December 14, 2021, Defendant RELIANCE STANDARD  
19 denied Plaintiff's appeal and advised that she had exhausted her administrative  
20 remedies.

21           22. As a direct and proximate result of the Defendant RELIASTAR's failure  
22 to provide Plaintiff with Long Term Disability benefits, she has been deprived of said  
23 benefits from on or about March 22, 2021 to the present date.

24           23. As a further direct and proximate result of the denial of benefits,  
25 Plaintiff has been required to incur attorney fees to pursue this action and is entitled  
26 to have such fees paid by Defendants pursuant to 29 U.S.C. § 1132(g) (1), ERISA §  
27 502(g) (1).

28           24. A controversy now exists between the parties as to whether Plaintiff is

1 disabled as defined in the Plan. Plaintiff seeks the declaration of this Court that she  
2 meets the Plan definition of disability and thus she is entitled to ongoing disability  
3 benefits under the Plan.

4 WHEREFORE, Plaintiff prays for relief against Defendants as follows:

- 5 1. An award of disability benefits from March 22, 2021 to present;
- 6 2. An order determining that Plaintiff is entitled to ongoing disability  
7 benefits; and
- 8 3. For reasonable attorney fees incurred in this action; and,
- 9 4. For such other and further relief as the Court deems just and proper.

10  
11 DATED: January 10, 2022

DONAHUE & HORROW, LLP



---

12  
13 MICHAEL B. HORROW  
14 SCOTT E. CALVERT  
15 Attorneys for Plaintiff  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28