

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 09-11768

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT FEB 25, 2010 JOHN LEY CLERK

D. C. Docket No. 00-00900-CV-H-N

ROBERT P. HEFFNER, JR.,
Individually, and on behalf of all those
similarly situated,

Plaintiff-Counter-
Defendant-Appellant,

DEBBIE R. HEFFNER,
Individually and on behalf of all those
similarly situated,

Plaintiff,

versus

BLUE CROSS AND BLUE SHIELD OF ALABAMA, INC.,

Defendant-Counter-
Claimant-Appellee.

Appeal from the United States District Court
for the Middle District of Alabama

(February 25, 2010)

Before TJOFLAT, PRYOR and MARTIN, Circuit Judges.

PER CURIAM:

Robert Heffner appeals the summary judgment in favor of Blue Cross and Blue Shield and against Heffner's complaint under the Employee Retirement Income Security Act. In an earlier interlocutory appeal, we vacated an order that had certified a class action, and we remanded for further proceedings. Heffner v. Blue Cross & Blue Shield of Ala., Inc., 443 F.3d 1330, 1346 (11th Cir. 2006). The district court concluded on remand that Heffner did not rely on the no deductible language in the summary plan description, and Heffner does not contest that ruling on appeal. After careful review of the briefs and the record, and after hearing oral argument, we **AFFIRM** for the reasons expressed in the well-reasoned opinion of the district court.