

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

KEVIN C. McCUSKER

CIVIL ACTION

v.

NO. 17-1214

UNUM LIFE INSURANCE CO.
OF AMERICA, ET AL.

SECTION "F"

ORDER AND REASONS

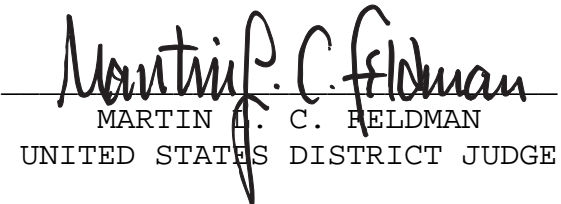
Local Rule 7.5 of the Eastern District of Louisiana requires that memoranda in opposition to a motion be filed eight days prior to the noticed submission date. No memoranda in opposition to the defendants' motion to strike jury demand, noticed for submission on May 17, 2017, has been submitted.

Accordingly, because the motion is unopposed, and further, it appearing to the Court that the motion has merit,¹ IT IS ORDERED:

¹ The plaintiff sued the defendants to recover accidental death benefits pursuant to Section 502(a)(1)(b) of the Employee Retirement Income Security Act based on a Group Life Insurance with Accelerated Benefit and Accidental Death and Dismemberment Insurance Policy issued by Unum Life Insurance Company of America to Fidelity Bank. The Policy provides coverage to eligible Fidelity employees under an employee welfare benefit plan. It is alleged that Dominique Espinoza McCusker was a Fidelity employee and participant in the plan and that her husband, the plaintiff, was a beneficiary under the plan; he seeks to recover accidental death benefits. Because this case is governed by ERISA, and ERISA claims are equitable in nature, the plaintiff is not entitled to a jury trial. See Borst v. Chevron Corp., 36 F.3d 1308, 1323-24 (5th Cir. 1994).

that the defendants' motion to strike jury demand is hereby GRANTED
as unopposed.

New Orleans, Louisiana, May 17, 2017


MARTIN D. C. FELDMAN
UNITED STATES DISTRICT JUDGE