

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

RUTH ANN HARE

PLAINTIFF

v.

Case No. 4:13-cv-87-DPM

**LIBERTY LIFE ASSURANCE
COMPANY OF BOSTON, ET AL.**

DEFENDANT

ERISA SCHEDULING ORDER

1. The pleadings indicate that this case is governed by the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 *et seq.* No trial is needed. Instead, the parties should brief the case on the administrative record. The court may hear oral argument after the briefing is done.

2. The briefing schedule is this:

- The parties must file the stipulated administrative record within forty-five days of this order;
- Plaintiff must move for judgment and file his or her brief within twenty-one calendar days after the stipulated record is filed;
- Defendants must respond to the motion and file their responding briefs within twenty-one calendar days after the Plaintiff's brief is filed;

- Plaintiff may file a reply brief within ten calendar days after Defendants file their briefs.

3. The parties' briefs must argue the case in terms of the threshold legal question: what is the court's standard of review – *de novo* or abuse of discretion – of the administrator's or fiduciary's decision on the administrative record? *See, e.g., Firestone Tire & Rubber Co. v. Bruch*, 489 U.S. 101, 108–115 (1989); *Metropolitan Life Ins. v. Glenn*, 554 U.S. 105, 110–111, 128 S. Ct. 2343, 2347–48 (2008); *Manning v. American Republic Ins. Co.*, 604 F.3d 1030, 1038–39 (8th Cir. 2010).
4. The parties must also cite specific pages of the administrative record as they brief the facts and the law.

So Ordered.



D.P. Marshall Jr.
United States District Judge

11 April 2013