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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
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11 MAUREEN STRATTON,

12 Plaintiff,

13 v.

14 LIFE INSURANCE COMPANY OF  
15 NORTH AMERICA and GARTNER,  
16 INC. GROUP INSURANCE PLAN,

17 Defendants.  
18

Case No.: 20-CV-2037 JLS (NLS)

**ORDER (1) GRANTING JOINT  
MOTION TO CONTINUE ERISA  
TRIAL BRIEFING AND HEARING  
AND (2) REQUESTING  
SUPPLEMENTAL BRIEFING  
REGARDING SUPPLEMENTATION  
OF ADMINISTRATIVE RECORD**

(ECF Nos. 32–35)

19 Presently before the Court is the Parties' Joint Motion to Continue ERISA Trial  
20 Briefing and Hearing ("Joint Mot.," ECF No. 35). Also before the Court is Plaintiff  
21 Maureen Stratton's ("Plaintiff") *Ex Parte* Application to Continue Trial Briefing and to  
22 Include Supplemental Vocational Report Within the Administrative Record or in the  
23 Alternative to Strike New Vocational Report from the Administrative Record ("*Ex Parte*  
24 Appl.," ECF No. 32), Defendant Life Insurance Company of North America's  
25 ("Defendant") Opposition thereto ("Opp'n," ECF No. 33), and Plaintiff's Reply in support  
26 thereof ("Reply," ECF No. 34).

27 Good cause appearing, the Court **GRANTS** the Parties' Joint Motion. The Court  
28 **VACATES** the briefing deadlines set by Magistrate Judge Nita L. Stormes (ECF Nos. 23,

1 28) as well as the hearing on the Parties’ cross-motions for judgment presently scheduled  
2 for September 2, 2021. However, rather than set continued deadlines at this time, the Court  
3 **REQUESTS** supplemental briefing on the issues raised in Plaintiff’s *Ex Parte* Application.  
4 In particular, the Court would like the Parties to address the following issues:

5 1. Was Defendant’s failure to provide Plaintiff with the Transferable Skills  
6 Analysis dated June 20, 2019 prior to July 3, 2021 a “procedural irregularity” or a “fail[ure]  
7 to follow a procedural requirement of ERISA” under *Abatie v. Alta Health & Life*  
8 *Insurance Co.*, 458 F.3d 955 (9th Cir. 2006) (en banc)?

9 2. Assuming so, should the Court (1) permit supplementation of the  
10 administrative record or (2) strike the June 20, 2019 Transferable Skills Analysis from the  
11 administrative record?

12 3. If the Court determines supplementation of the administrative record is  
13 appropriate, why should the Court not remand this matter to the plan administrator for an  
14 initial determination? *See, e.g., Mongeluzo v. Baxter Travenol Long Term Disability Ben.*  
15 *Plan*, 46 F.3d 938, 944 (9th Cir. 1995) (citation omitted); *Johal v. U.S. Life Ins. Co. in City*  
16 *of New York*, 494 F. Supp. 3d 644, 648 (D. Ariz. 2020) (citation omitted).

17 4. What effect, if any, does the stipulation to apply a *de novo* standard of review  
18 (ECF Nos. 13, 15) have on the above questions?

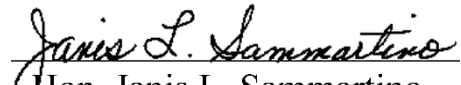
19 The Parties **SHALL FILE** simultaneous supplemental briefs addressing the above  
20 issues and any others they deem relevant to the Court’s consideration of the *Ex Parte*  
21 Application, *not to exceed ten (10) pages* in length, on or before July 28, 2021. The Parties  
22 **MAY FILE** simultaneous responsive briefs, *not to exceed five (5) pages* in length, on or  
23 before August 4, 2021. Thereafter, the Court will take Plaintiff’s *Ex Parte* Application and

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1 the briefing thereon under submission without oral argument pursuant to Civil Local Rule  
2 7.1(d)(1) and will issue a ruling in due course as to how to proceed with this action.

3 **IT IS SO ORDERED.**

4 Dated: July 14, 2021

  
5 Hon. Janis L. Sammartino  
6 United States District Judge  
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