UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

DALE C. GITTINGS,	§	
, ,	§	
Plaintiff,	§	
	§	
vs.	§	
	§	Case No. 08 cv 4972
TREDEGAR CORPORATION,	§	
TREDEGAR FILM PRODUCTS – LAKE	§	Judge Milton I. Shadur
ZURICH, LLC, and TREDEGAR	§	-
CORPORATION EMPLOYEE BENEFIT	§	Magistrate Judge Schenkier
PLAN,	§	
	§	
Defendants.	§	
	§	
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DEFENDANT'S MOTION FOR JUDGMENT ON THE ADMINISTRATIVE RECORD

Defendant, Tredegar Corporation Employee Benefit Plan (the "Plan"), by and through its counsel, moves for judgment on the administrative record pursuant to Fed. R. Civ. Proc. 52. In support of this Motion, Defendant states as follows:

1. This Court has jurisdiction over the parties and over the subject matter of this dispute pursuant to the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001, et seq. ("ERISA").

2. The parties and the Court have agreed to the briefing and submission of Plaintiff's claim for LTD pursuant to Rule 52 of the Federal Rules of Civil Procedure so that the Court may weigh the evidence and enter findings of fact and conclusions of law. *See, Diaz v. Prudential Ins. Co. of Am.*, 2007 U.S. App. LEXIS 20067 (7th Cir. Aug. 23, 2007); *Hess v. Hartford Life &Accident Ins. Co.*, 274 F.3d 456, 461 (7th Cir. 2001) (in an ERISA case, the applicable standard of review was the one found in Rule 52(a), where the parties stipulated to the facts that made up

the administrative record, and "the procedure the parties followed ... [was] more akin to a bench trial than to a summary judgment ruling.").

3. The parties have agreed to the admissibility of the administrative record which was filed on February 1, 2010 and June 17, 2011. [Docket #52, 130-132].

4. Plaintiff's Amended Complaint challenged the alleged that the denial of Plaintiff's long term disability claim while also claiming that Plaintiff was always able to perform his job functions with or without a reasonable accommodation from his employer.

5. The undisputed administrative record evidence shows that the Plan is entitled to judgment in its favor.

6. In support of this Motion, Defendant submits its Memorandum in Support of its Motion for Judgment on the Administrative Record, which is hereby incorporated in this Motion as if stated fully herein.

WHEREFORE, Defendant, Tredegar Corporation Employee Benefit Plan, respectfully requests that this Court **GRANT** its Motion for Judgment on the Administrative Record, and award Defendant its costs and attorney's fees incurred in defending this lawsuit, and such other relief as the Court deems proper.

Respectfully submitted,

OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.

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CERTIFICATE OF SERVICE

I hereby certify that on June 20, 2011, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's CM/ECF system.

Susan Best BEST, VANDERLAAN & HARRINGTON 25 E. Washington St. Suite 210 Chicago, IL 60602

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