

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

ENNIS R. ROBERTS

CIVIL ACTION

VERSUS

NO: 14-566

PRUDENTIAL INSURANCE CO. OF
AMERICA

SECTION: "A" (5)

ORDER AND REASONS

Before the Court is a **Motion to Dismiss Complaint in Part (Rec. Doc. 6)** filed by the defendant, Prudential Insurance Company of America. Plaintiff Ennis R. Roberts has responded to the motion. The motion, noticed for submission on June 4, 2014, is before the Court on the briefs without oral argument.

Plaintiff filed this lawsuit to recover long term disability benefits under a group policy issued by Defendant. It is undisputed that the plan is covered by ERISA.

Via the instant motion Defendant moves to dismiss the claims that Plaintiff has asserted in the alternative under state law in paragraph 30 of the complaint.¹ Given that the parties agree that ERISA governs this case, the state law claims asserted in the alternative at paragraph 30 of the complaint are superfluous and of course subject to preemption. Plaintiff does not argue to the contrary.


Accordingly, and for the foregoing reasons;

IT IS ORDERED that the **Motion to Dismiss Complaint in Part (Rec. Doc. 6)** filed by the defendant, Prudential Insurance Company of America is **GRANTED**. The

¹ The viability of the alternatively-asserted state law claims brought in paragraph 30 of the complaint is the sole issue that movants briefed so this is the sole issue that the Court rules upon. Plaintiffs briefed the applicability of La. R.S. § 22:990, and whether the statute is saved from preemption, but this issue was not briefed by Defendant so the Court does not address it.

state law claims asserted in the alternative at paragraph 30 of the complaint are
DISMISSED.

June 12, 2014



JAY C. ZAINES
UNITED STATES DISTRICT JUDGE