

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA**

**TAMMIE JEAN CAMPBELL**

**CIVIL ACTION**

**VERSUS**

**NO. 15-531-BAJ-RLB**

**LIBERTY LIFE ASSURANCE  
COMPANY OF BOSTON**

**ORDER**

Before the Court is the parties' Joint Motion Regarding Submission of Case to Court on Stipulated Record and Briefing Schedule (R. Doc. 11) filed on October 26, 2016.

On or about July 7, 2015, Tammie Jean Campbell ("Plaintiff") initiated this action in the 21st Judicial District Court, Livingston Parish, Louisiana, naming as defendant Liberty Life Assurance Company of Boston ("Defendant"). (R. Doc. 1-2 at 3-6). Defendant removed the action on August 11, 2015, asserting that the Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331.

On October 30, 2015, the Court entered a Scheduling Order (R. Doc. 10) based upon deadlines requested by the parties in their Joint Status Report (R. Doc. 7). The Scheduling Order set, among other things, the deadline to complete all non-expert discovery by March 22, 2016; the deadline to complete expert discovery by October 11, 2016; and the deadline to file dispositive motions and Daubert motions by November 9, 2016. (R. Doc. 10 at 1-2). Trial is set to commence on May 15, 2017. (R. Doc. 10 at 2).

The parties seek amendment of the Scheduling Order to set deadlines for the parties to file a stipulated record and trial briefs. The parties also request the Court to vacate its pre-trial

conference date of March 16, 2017, its trial date of May 15, 2017, and all other pre-trial deadlines.

Rule 16(b)(4) of the Federal Rules of Civil Procedure allows for the modification of a scheduling order deadline upon a showing of good cause and with the judge's consent. The Fifth Circuit has explained that a party is required "to show that the deadlines cannot reasonably be met despite the diligence of the party needing the extension." *Marathon Fin. Ins. Inc., RRG v. Ford Motor Co.*, 591 F.3d 458, 470 (5th Cir. 2009) (quoting *S&W Enters., LLC v. Southtrust Bank of Ala., NA*, 315 F.3d 533, 535 (5th Cir. 2003)).

The parties argue that there is good cause for modifying the Scheduling Order because Plaintiff has asserted a claim "for recovery of disability benefits" that "are governed by the Employee Retirement Income Security Act of 1974, as amended 29 U.S.C. § 1001, et seq. ('ERISA')." (R. Doc. 11 at 1). The parties assert that "the most cost-effective and prudent manner to resolve the litigation is to submit this action to the Court on a stipulated record and briefing." (R. Doc. 11 at 1).

The Court's Scheduling Order provided the parties with sufficient time to file stipulations with regard to the administrative record and to file appropriate dispositive motions addressing Plaintiff's claims. Nevertheless, in light of the nature of this action, the Court finds good cause for granting the relief requested by the parties.<sup>1</sup>

Based on the foregoing,

**IT IS ORDERED** that, with consent of the district judge, the Joint Motion Regarding Submission of Case to Court on Stipulated Record and Briefing Schedule (R. Doc. 11) is **GRANTED**.

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<sup>1</sup> In light of the date of this Order, the Court will provide longer extensions than those requested by the parties in their proposed order.

**IT IS FURTHER ORDERED** that the all other deadlines in the Court's Scheduling Order (R. Doc. 10) are **VACATED**. The March 16, 2017 pre-trial conference and the May 15, 2017 trial are **CANCELLED**. Discovery remains closed.

**IT IS FURTHER ORDERED** that, pursuant to the agreement of the parties as represented in the Motion (R. Doc. 11), the parties shall jointly file a stipulated record on or before December 5, 2016. The filing shall include (1) a copy of all pertinent portions of the plan and (2) a copy of the complete administrative record concerning plaintiff's claim for benefits.

**IT IS FURTHER ORDERED** that each party shall file a Motion for Summary Judgment or other appropriate motion on or before January 13, 2017. Oppositions to any motions shall be filed on or before February 10, 2017. Unless the Court orders otherwise, reply briefs may only be filed with leave of Court.

Signed in Baton Rouge, Louisiana, on November 18, 2016.



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**RICHARD L. BOURGEOIS, JR.**  
**UNITED STATES MAGISTRATE JUDGE**