

**UNITED STATES DISTRICT COURT  
 WESTERN DISTRICT OF LOUISIANA**

**MONROE DIVISION**

**ALFRED MERCER**

\* **CIVIL ACTION NO. 11-0372**

**VERSUS**

\* **JUDGE ROBERT G. JAMES**

**LIFE INSURANCE COMPANY OF  
 NORTH AMERICA**


\* **MAG. JUDGE KAREN L. HAYES**

**J U D G M E N T**

The Report and Recommendation of the Magistrate Judge having been considered, no objections thereto having been filed, and finding that same is supported by the law and the record in this matter,

IT IS ORDERED, ADJUDGED, AND DECREED that the cross-motions for summary judgment [doc. #s 6 & 9] filed by plaintiff Alfred Mercer and defendant Life Insurance Company of North America are hereby **GRANTED IN PART** and **DENIED IN PART**. Fed.R.Civ.P. 56. LINA's determination that Mercer is not disabled is a factual determination that is subject to review for abuse of discretion, with the court weighing any conflict of interest (if established by the employee) as a factor in the analysis. Furthermore, in the event that any issues of plan term interpretation arise in the course of these proceedings, the court shall review the issue(s) *de novo*.

THUS DONE AND SIGNED this 21 day of September 2011 in  
 Monroe, Louisiana.

  
 ROBERT G. JAMES  
 UNITED STATES DISTRICT JUDGE