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

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

The Report and Recommendation [Doc. No. 34] of the Magistrate Judge having been considered, together with Defendant's Objection [Doc. No. 35], Plaintiff's Response [Doc. No. 36], and Defendant's Reply [Doc. No. 37,] thereto filed with this Court, and, after a *de novo* review of the record, finding that the Magistrate Judge's Report and Recommendation is correct and that judgment as recommended therein is warranted,

**IT IS ORDERED** that the Motion for Summary Judgment [Doc. No. 28] filed by Defendant Life Insurance Company of North America is hereby DENIED.

**IT IS FURTHER ORDERED** that the Motion for Summary Judgment [Doc. No. 24] filed by Plaintiff Alfred Mercer is DENIED, insofar as it seeks to re-visit the standard of review to be applied in this case.

**IT IS FURTHER ORDERED, ADJUDGED, and DECREED** that the Motion for Summary Judgment [Doc. No. 24] filed by Plaintiff Alfred Mercer is otherwise GRANTED, and that judgment is hereby entered in favor of Plaintiff Alfred Mercer ordering Defendant Life Insurance of North America to pay Plaintiff long term disability benefits retroactive to his alleged disability onset date of December 17, 2009, through and until the entry of judgment,

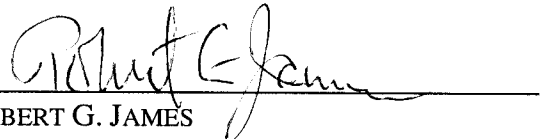
subject to such elimination period and offsets permitted under the Plan.

**IT IS FURTHER ORDERED** that Defendant Life Insurance of North America continue to make long term disability benefit payments, from the entry of this judgment, in the monthly amount specified in the Plan, subject to such offsets as are permitted in the Plan, until such time, if there comes such a time, that Life Insurance of North America makes an adverse determination, *consistent with ERISA and the Plan terms*, that Plaintiff is no longer entitled to benefits.

**IT IS FURTHER ORDERED** that attorney's fees are awarded in favor of Plaintiff in an amount to be jointly stipulated by the parties, or via contested motion, if, despite *all reasonable and diligent efforts*, the parties remain unable to agree upon a reasonable figure.

**IT IS FURTHER ORDERED** that defendant bear all assessable court costs.

THUS DONE AND SIGNED, Monroe, Louisiana, this 18th day of June 2012.



Handwritten signature of Robert G. James in cursive script, written over a horizontal line.

ROBERT G. JAMES  
UNITED STATES DISTRICT JUDGE