

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

SHERRY HOUCK PHILEN	*	CIVIL ACTION NO. 11-1609
VERSUS	*	JUDGE ROBERT G. JAMES
HARTFORD LIFE AND ACCIDENT INSURANCE COMPANY, ET AL	*	MAG. JUDGE KAREN L. HAYES

J U D G M E N T

The Report and Recommendation of the Magistrate Judge having been considered, together with the written objections 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, ADJUDGED, AND DECREED that the Motion for Partial Summary Judgment [Doc. No. 12] filed by Plaintiff Sherry Houck Philen ("Philen") is hereby **DENIED**. Hartford Life and Accident Insurance Company's determination that Philen 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.

Because the standard of review for factual findings in ERISA cases is well settled in this Circuit, the Court declines to certify this issue for interlocutory appeal.

THUS DONE AND SIGNED this 23rd day of October, 2012, in Monroe, Louisiana.


ROBERT G. JAMES
UNITED STATES DISTRICT JUDGE