

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

CARL DEWAYNE WRIGHT

CIVIL ACTION NO. 14-0744

VERSUS

JUDGE ROBERT G. JAMES

**LOUISIANA CORRUGATED
PRODUCTS, LLC, 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, 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 Defendants' Joint Motion for Partial Summary Judgment [Doc. No. 31] is hereby GRANTED, and judgment is entered in favor of Defendants declaring 1) that Plaintiff's state law claim for unpaid benefits under the Plan is completely preempted by ERISA and, thus, recast as a claim under ERISA § 502(a)(1)(B), and 2) that Plaintiff's state law claims for penalties and detrimental reliance under Louisiana Revised Statute § 22:1821 and Louisiana Civil Code Article 1967, respectively, are conflict-preempted by ERISA.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff's state law claims for penalties and detrimental reliance under Louisiana Revised Statute § 22:1821 and Louisiana Civil Code Article 1967, respectively, are hereby DISMISSED WITH PREJUDICE, as preempted.

IT IS FURTHER ORDERED that Defendant Vantage Health Plan, Inc.'s "Motion to Dismiss pursuant to Rule 12(b)(6) for Failure to Exhaust Administrative Remedies and in the

Alternative, for Summary Judgment” [Doc. No. 11], and Defendants Louisiana Corrugated Products, LLC, and U.S. Corrugated, Inc.’s Motion for Judgment on the Pleadings (converted to a motion for summary judgment) [Doc. No. 17] are each GRANTED IN PART. Plaintiff’s recast claim for unpaid benefits under ERISA § 502(a)(1)(B) are hereby DISMISSED WITHOUT PREJUDICE. Defendants’ motions [Doc. Nos. 11 & 17] otherwise are DENIED.

IT IS FURTHER ORDERED that this matter is hereby STAYED for a period of 60 days, so Plaintiff may exhaust administrative remedies, and, thereafter, amend his Complaint to assert his *then* exhausted § 502(a)(1)(B) claim. If Plaintiff instead desires to forego his § 502(a)(1)(B) claim and proceed solely with his COBRA claim, he shall file a notice in the record no later than November 21, 2014.

MONROE, LOUISIANA, this 6th day of November, 2014.


ROBERT G. JAMES
UNITED STATES DISTRICT JUDGE