

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

JANIE READY

v.

LIFE INSURANCE COMPANY OF
NORTH AMERICA

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Case No. 2:12-CV-665-JRG-RSP

MEMORANDUM ORDER

The Court having considered the oral arguments of the parties on May 13, 2014, and having carefully reviewed the supplemental briefs filed thereafter, finds that the Plaintiff’s claims in this matter are governed by ERISA. The parties agree that the conversion policy itself is not governed by ERISA, as established by the cases cited by Plaintiff. *Shelton v. Standard Insurance Co.*, No. 07–6030, 2008 WL 2067024 (E.D.La. May 14, 2008); *Owens v. UNUM Life Ins. Co.*, 285 F.Supp.2d 778 (E.D. Tex. 2003). However, the dispute in this case is not whether benefits are owed under the conversion policy, but whether that policy was issued on a timely application. That issue involves the terms of the group benefit plan, which is clearly subject to ERISA. Following the holdings of *Gabner v. Metro. Life Ins. Co.*, 938 F.Supp. 1295, 1302 (E.D. Tex. 1996) and *Yong Ok Sankey v. Metro. Life Ins. Co.*, 2012 WL 2338964 (E.D.La. 2012), the Court finds that whether the application for the conversion policy was timely under the group plan is a determination governed by the provisions of ERISA.

Accordingly, the parties are directed to meet and confer and file a Joint Report within 10 days reflecting their positions and agreements regarding the appropriate schedule for submission of this matter to the Court under ERISA, preserving to Plaintiff her objection to this ruling.

SIGNED this 23rd day of January, 2015.


ROY S. PAYNE
UNITED STATES MAGISTRATE JUDGE