

1 Janice P. Brown, Esq. (California State Bar No. 114433)
 2 Stacy L. Fode, Esq. (California State Bar No. 199883)
 3 Jaejung Kim, Esq. (California State Bar No. 254170)
BROWN LAW GROUP, ALC
 4 600 B Street, Suite 1650
 San Diego, California 92101
 5 Tel: (619) 330-1700 / Fax: (619) 330-1701
 Attorneys for Plaintiff Prudential Insurance Company of America

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 8 **UNITED STATES DISTRICT COURT**
 9 **NORTHERN DISTRICT OF CALIFORNIA**

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 11 THE PRUDENTIAL INSURANCE) Civil Case No. CV-09-0132-BZ
 12 COMPANY OF AMERICA,)
 13 Plaintiff,) **REQUEST FOR DISMISSAL**
) **OF PLAINTIFF PRUDENTIAL**
) **INSURANCE COMPANY OF AMERICA**
 14 v.)
) Courtroom: G
 15 ALEXANDRA BAILEY WELLS and) Magistrate Judge Zimmerman
 16 DAVID WELLS,)
)
 17 Defendants.)
 18)

19 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

20 **PLEASE TAKE NOTICE** that Plaintiff PRUDENTIAL INSURANCE COMPANY OF
 21 AMERICA (“Prudential”) requests that Prudential be dismissed with prejudice from the above-
 22 entitled action, pursuant to the Court’s Order (attached hereto as Exhibit “A”) and the Joint
 23 Motion for Plaintiff Prudential Insurance Company of America to (1) interplead funds; (2) be
 24 dismissed from the case; and (3) be awarded its reasonable attorneys’ fees and costs (attached
 25 hereto as Exhibit “B”).

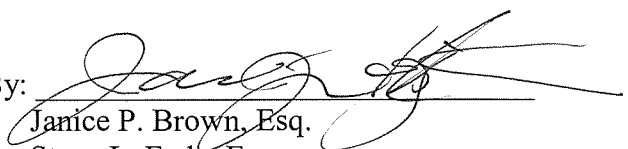
26 **PLEASE ALSO TAKE NOTICE** that the interpleaded amount of \$500,000.00, less
 27 attorneys’ fees and costs, plus claim interest, which represented the full death benefit owed under
 28

1 the variable universal life insurance policy number V-1022758 issued to the insured Deborah
2 Bailey-Wells, was deposited into the Registry of the Court on July 23, 2009.

3
4 **RESPECTFULLY SUBMITTED:**

5 Dated: July 30, 2009

BROWN LAW GROUP

6
7 By: 
8 Janice P. Brown, Esq.
9 Stacy L. Fode, Esq.
10 Jaejung Kim, Esq.
11 Attorneys for Plaintiff
12 Prudential Insurance Company of America

11 No opposition, having been filed,
12 **IT IS SO ORDERED.**

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14 Dated: August 4, 2009



Magistrate Judge Bernard Zimmerman

EXHIBIT A

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PRUDENTIAL INSURANCE COMPANY OF AMERICA,)	Civil Case No. CV-09-0132-BZ
)	
Plaintiff,)	PROPOSED ORDER
)	
v.)	Magistrate Judge Bernard Zimmerman
)	Courtroom: G
ALEXANDRA BAILEY WELLS and DAVID WELLS,)	
)	
Defendants.)	

THE COURT APPROVES THE FOLLOWING:

The court having received the Joint Motion and Stipulation by Plaintiff The Prudential Insurance Company of America (“Prudential”) and Defendants Alexandra Bailey Wells and David Wells (the “Defendants”) for Prudential to interplead the amount of \$500,000.00 less attorneys’ fees and costs, plus claim interest, if any, which represents the full death benefit owed under the variable universal life insurance policy, number V-1022758 (the “Policy”) issued to the insured, Deborah Bailey-Wells (the “Death Benefit”); upon the deposit of the Death Benefit, for Prudential to be dismissed from the above-captioned action with prejudice and discharged from

1 any and all liability to the Defendants relating to the Policy and/or the Death Benefit, and for
2 both Defendants to be, and hereby are, permanently enjoined from making any further actual or
3 implied claims, demands and causes of action, asserted or unasserted, liquidated or unliquidated,
4 arising out of or in connection with Prudential relating to the Policy and/or the Death Benefit due
5 thereunder; and for Prudential to be awarded its attorneys' fees in the amount of \$ 11,822.50,
6 plus any additional amount through this date, and costs in the amount of \$40.74, having found
7 good cause, the court grants the motion.

8 **IT IS SO ORDERED.**

9
10 Dated: June 24, 2009


Magistrate Judge Bernard Zimmerman

EXHIBIT B

1 Janice P. Brown, Esq. (California State Bar No. 114433)
2 Stacy L. Fode, Esq. (California State Bar No. 199883)
3 **BROWN LAW GROUP, ALC**
4 600 B Street, Suite 1650
San Diego, California 92101
Tel: (619) 330-1700 / Fax: (619) 330-1701
Attorneys for Plaintiff Prudential Insurance Company of America

5 Meryl Macklin, Esq. (California State Bar No. 115053)
6 **HOLME ROBERTS & OWEN, LLP**
7 560 Mission Street, 25th Floor
San Francisco, CA 94105-2994
Tel: (415) 268-2000 / Fax: (415) 268-1999
Attorneys for Defendant Alexandra Bailey-Wells

8 William F. Crowell, Esq. (California State Bar No. 53366)
9 1110 Pleasant Valley Road
Diamond Springs, CA 95619
10 Tel: (530) 295-0350 / (530) 295-0352
Attorneys for Defendant David Wells

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12
13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA**

15 THE PRUDENTIAL INSURANCE) Civil Case No. CV-09-0132-BZ
16 COMPANY OF AMERICA,)
17 Plaintiff,) **JOINT MOTION FOR PLAINTIFF**
18 v.) **PRUDENTIAL INSURANCE COMPANY**
19 ALEXANDRA BAILEY WELLS and) **OF AMERICA TO**
20 DAVID WELLS,) **(1) INTERPLEAD FUNDS;**
21 Defendants.) **(2) BE DISMISSED FROM THE CASE;**
22) **AND**
23) **(3) BE AWARDED ITS REASONABLE**
) **ATTORNEYS' FEES AND COSTS**
) Courtroom: G
) Magistrate Judge Zimmerman

24 WHEREAS, Plaintiff The Prudential Insurance Company of America (“Prudential”) and
25 Defendants Alexandra Bailey Wells and David Wells (the “Defendants”) (collectively, the
26 “Parties”) hereby submit this Joint Motion for the purpose of interpleading the amount of
27 \$500,000.00, less attorneys’ fees and costs, plus claim interest, if any, which represents the full
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1 death benefit owed under the variable universal life insurance policy, number V-1022758 (the
2 "Policy") issued to the insured, Deborah Bailey-Wells (the "Death Benefit"); dismissing
3 Prudential from the above-captioned action and releasing all claims, rights, interests and actions
4 and holding Prudential harmless; and, awarding Prudential its reasonable attorneys' fees and
5 costs (the "Joint Motion").

6 WHEREAS, Prudential is a neutral stakeholder and is ready and willing to pay the Death
7 Benefit.

8 WHEREAS, Prudential brought its Complaint in Interpleader (the "Complaint") as there
9 are competing claims to the Death Benefit.

10 WHEREAS, Defendant David Wells filed a motion to dismiss Prudential's Complaint on
11 February 17, 2009 for lack of subject matter jurisdiction and failure to state a claim upon which
12 relief may be granted.

13 WHEREAS, on May 21, 2009, the Court denied Defendant David Wells' motion to
14 dismiss in its entirety, and determined that Prudential's proposed first amended complaint
15 alleged a proper basis for jurisdiction.

16 WHEREAS, it is in the best interests of the Parties for the Death Benefit to be interpleaded
17 and Prudential dismissed from this lawsuit to stop accrual of attorneys' fees and costs.

18 WHEREAS, Prudential is entitled to recover reasonable attorneys' fees and costs
19 pursuant to Code of Civil Procedure Section 386.6(a).

20 WHEREAS, the Parties STIPULATE and respectfully request this Court order as
21 follows:

- 22 1. The Clerk of the Court receive and deposit into the Registry of the Court the Death
23 Benefit, less attorneys' fees and costs, plus claim interest, if any;
- 24 2. Upon the deposit of the Death Benefit, Prudential shall be, and hereby is,
25 dismissed from the above-captioned action with prejudice and discharged from any
26 and all liability to the Defendants relating to the Policy and/or the Death Benefit,
27 and both Defendants shall be, and hereby are, permanently enjoined from making

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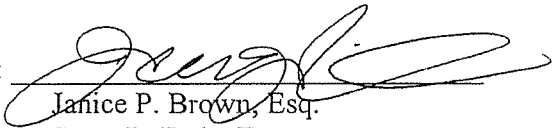
any further actual or implied claims, demands and causes of action, asserted or unasserted, liquidated or unliquidated, arising out of or in connection with Prudential relating to the Policy and/or the Death Benefit due thereunder. The Defendants do therefore release, remise and forever disclaim all claims, rights, interests and actions that it might otherwise have held against Prudential relating to the Policy and/or the Death Benefit; and,

3. Prudential is awarded its attorneys' fees in the amount of \$ 11,822.50, plus any additional amount through the date of dismissal, and costs in the amount of \$40.74.

IT IS SO STIPULATED.

Dated: June 23, 2009

BROWN LAW GROUP

By: 
Janice P. Brown, Esq.
Stacy L. Fode, Esq.
Jaejung Kim, Esq.
Attorneys for Plaintiff
Prudential Insurance Company of America

Dated: June _____, 2009

HOLME ROBERTS & OWEN, LLP

By: _____
Meryl Macklin
Attorneys for Defendant
Alexandra Bailey-Wells

Dated: June _____, 2009

By: _____
William Crowell
Attorney for Defendant
David Wells

303-866-0200

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1 any further actual or implied claims, demands and causes of action, asserted or
2 unasserted, liquidated or unliquidated, arising out of or in connection with
3 Prudential relating to the Policy and/or the Death Benefit due thereunder. The
4 Defendants do therefore release, remise and forever disclaim all claims, rights,
5 interests and actions that it might otherwise have held against Prudential relating to
6 the Policy and/or the Death Benefit; and,

7 3. Prudential is awarded its attorneys' fees in the amount of \$ 11,822.50, plus any
8 additional amount through the date of dismissal, and costs in the amount of \$40.74.
9

10 **IT IS SO STIPULATED.**

11 Dated: June _____, 2009

BROWN LAW GROUP

12 By: _____

13 Janice P. Brown, Esq.
14 Stacy L. Fode, Esq.
15 Jaejung Kim, Esq.
16 Attorneys for Plaintiff
17 Prudential Insurance Company of America

18 Dated: June 19, 2009

HOLME ROBERTS & OWEN, LLP

19 By: _____

20 Meryl Macklin
21 Attorneys for Defendant
22 Alexandra Bailey-Wells

23 Dated: June _____, 2009

24 By: _____

25 William Crowell
26 Attorney for Defendant
27 David Wells

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any further actual or implied claims, demands and causes of action, asserted or unasserted, liquidated or unliquidated, arising out of or in connection with Prudential relating to the Policy and/or the Death Benefit due thereunder. The Defendants do therefore release, remise and forever disclaim all claims, rights, interests and actions that it might otherwise have held against Prudential relating to the Policy and/or the Death Benefit; and,

3. Prudential is awarded its attorneys' fees in the amount of \$ 11,822.50, plus any additional amount through the date of dismissal, and costs in the amount of \$40.74.

IT IS SO STIPULATED.

Dated: June _____, 2009

BROWN LAW GROUP

By: _____
Janice P. Brown, Esq.
Stacy L. Fode, Esq.
Jaejung Kim, Esq.
Attorneys for Plaintiff
Prudential Insurance Company of America

Dated: June _____, 2009

HOLME ROBERTS & OWEN, LLP

By: _____
Meryl Macklin
Attorneys for Defendant
Alexandra Bailey-Wells

Dated: June 23, 2009

By: William Crowell
William Crowell
Attorney for Defendant
David Wells

DECLARATION OF SERVICE

Prudential Insurance Company of America v. Alexandra Bailey Wells, et al.
United States District Court – Northern District Case No. CV-09-0132-BZ

I, the undersigned, declare under penalty of perjury under the laws of the state of California that I am over the age of eighteen (18) and not a party to the within action; my business address is 600 B Street, Suite 1650, San Diego, California 92101.

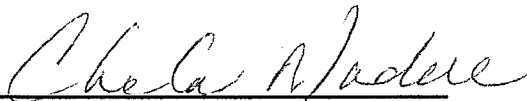
On June 24, 2009, I served the foregoing documents described as **JOINT MOTION FOR PLAINTIFF PRUDENTIAL INSURANCE COMPANY OF AMERICA TO (1) INTERPLEAD FUNDS; (2) BE DISMISSED FROM THE CASE; AND (3) BE AWARDED ITS REASONABLE ATTORNEYS' FEES AND COSTS; [PROPOSED] ORDER** on the interested parties in this action as set forth below in the following manner.

ATTORNEYS FOR: Alexandra Bailey Wells
Meryl Macklin, Esq.
Holme Roberts & Owen LLP
560 Mission Street, 25th Floor
San Francisco, CA 94105-2994
Phone: 415-268-2000
Fax: 415-268-1999
Email: meryl.macklin@hro.com

ATTORNEY FOR: David Wells
William F. Crowell, Esq.
1110 Pleasant Valley Road
Diamond Springs, CA 95619
Phone: 530-295-0350
Fax: 530-295-0352
Email: retroguybilly@gmail.com

- () **BY MAIL.** By placing a copy in a separate envelope, with postage fully prepaid, for each address named above and depositing each in the U.S. Mail at San Diego, California.
- () **BY FACSIMILE.** In addition to service by mail as set forth above, a copy of said document(s) was also delivered by facsimile transmission to the addressee(s).
- () **BY PERSONAL SERVICE.** By causing a true copy of said document(s) to be hand-delivered to the addressee(s) via a California registered process server.
- () **ECF TRANSMISSION.** I filed the foregoing document with the Clerk of the Court for the United States District Court, Central District, using the Electronic Case Filing ("ECF") system of the Court. The attorney listed above has consented to receive service by electronic means and is registered with the Court's ECF system and was serve a "Notice of Electronic Filing" sent by ECF system.
- (X) **ELECTRONIC TRANSMISSION.** I electronically served the foregoing document(s) on the attorney listed above. The attorney listed above has consented to receive service by electronic means at the electronic mail address listed above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this Declaration was executed on June 24, 2009, at San Diego, California.


Chela Madere

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DECLARATION OF SERVICE

Prudential Insurance Company of America v. Alexandra Bailey Wells, et al.
United States District Court – Northern District Case No. CV-09-0132-BZ

I, the undersigned, declare under penalty of perjury under the laws of the state of California that I am over the age of eighteen (18) and not a party to the within action; my business address is 600 B Street, Suite 1650, San Diego, California 92101.

On July 30, 2009, I served the foregoing documents described as **REQUEST FOR DISMISSAL OF PLAINTIFF PRUDENTIAL INSURANCE COMPANY OF AMERICA** on the interested parties in this action as set forth below in the following manner.

ATTORNEYS FOR: Alexandra Bailey Wells


Meryl Macklin, Esq.
Holme Roberts & Owen LLP
560 Mission Street, 25th Floor
San Francisco, CA 94105-2994
Phone: 415-268-2000
Fax: 415-268-1999
Email: meryl.macklin@hro.com

ATTORNEY FOR: David Wells

William F. Crowell, Esq.
1110 Pleasant Valley Road
Diamond Springs, CA 95619
Phone: 530-295-0350
Fax: 530-295-0352
Email: retroguybilly@gmail.com

- () **BY MAIL.** By placing a copy in a separate envelope, with postage fully prepaid, for each address named above and depositing each in the U.S. Mail at San Diego, California.
- () **BY FACSIMILE.** In addition to service by mail as set forth above, a copy of said document(s) was also delivered by facsimile transmission to the addressee(s).
- () **BY PERSONAL SERVICE.** By causing a true copy of said document(s) to be hand-delivered to the addressee(s) via a California registered process server.
- (X) **ECF TRANSMISSION.** I filed the foregoing document with the Clerk of the Court for the United States District Court, Northern District, using the Electronic Case Filing (“ECF”) system of the Court. The attorney listed above has consented to receive service by electronic means and is registered with the Court’s ECF system and was served a “Notice of Electronic Filing” sent by ECF system.

I declare under penalty of perjury under the laws of the United States, that the foregoing is true and correct and that this Declaration was executed on July 30, 2009, at San Diego, California.



Chela Madere