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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Lee Norris,

 Plaintiff,

vs.

The Kroger Co., et al.,

 Defendants.

No. CV-14-00251-PHX-SPL

ORDER

Before the Court is Plaintiff’s Motion for Leave to File First Amended Complaint. (Doc. 32.) Plaintiff seeks to bring an additional claim against Defendants for failing to comply with the disclosure requirements of the Employee Retirement Income Security Act (“ERISA”). (Doc. 32-1 at ¶ 53-57.) Plaintiff indicates that after Defendant denied him benefits under its short-term disability plan, he requested a copy of the complete Short-Term Disability Plan (“Plan”) on multiple occasions; however, Defendant has only provided him a two-page information sheet about the Plan. (Doc. 32 at 2; Doc. 32-1 at ¶ 34-40.)

Defendant opposes the motion on the basis that Plaintiff has no legal claim for relief because the Plan under which Plaintiff was denied benefits is not governed by ERISA. (Doc. 34 at 4-7.) Defendants also claim that they have already provided Plaintiff a copy of all available documentation. (Doc. 34 at 7-8; Doc. 34-1 at 2-4.)

Upon review of the record, the Court finds that in order to rule on Plaintiff’s motion and determine whether leave to file an amended complaint is warranted, a full and

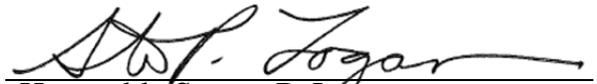
1 complete copy of the Plan is necessary. Although Defendants claim they have provided
2 the requested Plan to Plaintiff, it is evident from the record that Defendant has only
3 provided Plaintiff a two-page summary sheet containing an overview of the short-term
4 disability benefits Defendants provide to their employees. (See Doc. 34-1 at 2-4.) It is
5 also evident that a more detailed document exists, as the summary sheet expressly notes:

6
7 This document includes highlights of The Kroger Co.'s 2011 Short-Term
8 Disability Plan. Every effort has been made to provide accurate
9 information. A complete description of each benefit option can be found in
10 the plans' legal documents and contracts. In the event of a conflict between
11 this and any other descriptions of the plan, the formal plan documents and
12 insurance contracts will control.

13 (*Id.*) Further, the summary sheet directs employees to contact the company's Human
14 Resources Department to obtain more information on the company's family medical
15 leave and short-term disability policies and to receive a copy of the company's short-term
16 disability summary plan description. (*Id.*) Accordingly,

17 **IT IS ORDERED** that Defendant shall have **thirty (30) days** from the date of this
18 order to file a copy of The Kroger Co.'s 2011 Short-Term Disability Plan and any revised
19 or amended versions thereof with the Court.

20 Dated this 7th day of August, 2014.

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22 _____
23 Honorable Steven P. Logan
24 United States District Judge
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