

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FAYETTEVILLE DIVISION

ROBERT B. BORDEN

PLAINTIFF

v.

Case No. 5:11-CV-05275

FIDELITY LIFE ASSOCIATION

DEFENDANT

**ORDER**

Currently before the Court is the parties' Joint Motion to Dismiss (Doc. 14). The parties jointly move the Court to dismiss this action, without prejudice, pursuant to Fed. R. Civ. P. 41 (a)(2), requesting that the dismissal be ordered on certain terms requested by the parties.

Upon due consideration, the Joint Motion to Dismiss (Doc. 14) is GRANTED and Plaintiff's complaint is hereby DISMISSED WITHOUT PREJUDICE pursuant to Fed. R. Civ. P. 41 (a)(2). Defendant's counterclaim is likewise DISMISSED WITHOUT PREJUDICE.

The parties are to bear their own costs and fees. However, should Plaintiff re-file his claim in either federal court or state court, Defendant may at that time seek payment, pursuant to Federal Rule of Civil Procedure 41(d)(1), of any duplicative costs, fees, or expenses incurred.

IT IS SO ORDERED this 5th day of September, 2012.

*/s/ P. K. Holmes, III*

P. K. HOLMES, III  
CHIEF U.S. DISTRICT JUDGE