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13	Attorneys for Plaintiff LONNIE BOTTS	
14	UNITED STATES DISTRICT COURT	
15	EASTERN DISTRICT OF CALIFORNIA	
16		
17	LONNIE BOTTS,	CASE NO. 1:13-cv-00908-LJO- BAM
18	Plaintiff,) STIPULATION OF PARTIES FOR
19	SUN LIFE ASSURANCE COMPANY OF	 DISMISSAL OF DEFENDANT BERRY PETROLEUM COMPANY GROUP
20	CANADA; BERRY PETROLUEM COMPANY GROUP TERM EMPLOYEE) TERM EMPLOYEE BENEFIT PLAN) WITHOUT PREJUDICE; ORDER
21	BENEFIT PLAN,)) Complaint Filed: June 14, 2013
22	Defendants.)
23)
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28 BARGER & WOLEN LLP 650 CALIFORNIA STREET NINTH FLOOR SAN FRANCISCO, CA 94108	EMPLOYEE BE	NDANT BERRY PETROLEUM COMPANY GROUP TERM ENEFIT PLAN;ORDER 00908 LJO-BAM

1	RECITALS	
2	Plaintiff Lonnie Botts ("Botts") and Defendant Sun Life Assurance Company of Canada	
3	("Sun Life"), through their respective counsel, stipulate and agree as follows:	
4	1. WHEREAS the parties agree that this case is governed by the Retirement Income	
5	Security Act of 1974 ("ERISA"), 29 U.S.C. Section 1001, et seq. Sun Life has confirmed that	
6	BERRY PETROLUEM COMPANY GROUP TERM EMPLOYEE BENEFIT PLAN is fully	
7	insured under Group Policy No. 10855 at issue to insure benefits for the time period at issue in this	
8	case.	
9	2. If, and to the extent, the court awards long-term disability benefits to Plaintiff under	
10	the aforementioned Policy, Sun Life agrees that any and all such benefits are payable by Sun Life	
11	subject to the terms and conditions of the Policy. Sun Life also agrees that if any attorneys' fees,	
12	interest, costs and other such relief is awarded under ERISA based upon Sun Life's decision on	
13	Plaintiff's claim, then it is the proper party for payment of those additional damages. The parties	
14	agree that nothing herein shall be construed as a waiver of Sun Life's right to appeal from any	
15	finding of liability by the Court.	
16	3. Sun Life states that it will not raise any defenses to any of the claims currently	
17	asserted in the Complaint based on dismissal of the Plan and/or absence of the Plan from litigation.	
18	STIPULATION	
19	IT IS THEREFORE AGREED AND STIPULATED by Botts and Sun Life, through their	
20	respective counsel of record, that the Plan be dismissed, without prejudice, with the parties to bear	
21	their own attorneys' fees and costs directly related to the instant Stipulation and the dismissal of the	
22	Plan. Sun Life shall remain the only named defendant.	
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28	-2- STIPULATION OF PARTIES FOR DISMISSAL OF DEFENDANT	
BARGER & WOLEN LLP 650 CALIFORNIA STREET NINTH FLOOR SAN FRANCISCO, CA 94108 (415) 434-2800	BERRY PETROLEUM COMPANY GROUP TERM EMPLOYEE BENEFIT PLAN; ORDER 1:13-CV-00908 LJO-BAM	

1		
1	Dated: August 19, 2013 BARGER & WOLEN LLP	
2		
4	By: <u>/s/ J. RUSSELL STEDMAN</u> J. RUSSELL STEDMAN	
4	BRENDAN V. MULLAN Attorneys for Defendant	
6	SUN LÍFE ASSURANCE COMPANY OF CANADA	
7		
8	Dated: August 19, 2013 DONAHUE & HORROW, LLP	
9		
10		
11	By: <u>/s/_MICHAEL B. HORROW</u> MICHAEL B. HORROW	
12	NICHOLE D. PODGURSKI Attorneys for Plaintiff	
13	LONNIE BOTTS	
14	<u>ORDER</u>	
15	Based upon the foregoing Stipulation, and good cause appearing therefor, Defendant Berry	
16	Petroleum Company Group Term Employee Benefit Plan shall be and hereby is dismissed from this	
17	action without prejudice with the parties to bear their own attorneys' fees and costs directly related	
18	to the instant Stipulation and the dismissal of the Plan. Sun Life shall remain the only named	
19	defendant.	
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21	IT IS SO ORDERED.	
22	Dated: August 19, 2013 /s/ Lawrence J. O'Neill UNITED STATES DISTRICT JUDGE	
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28	-3- STIPULATION OF PARTIES FOR DISMISSAL OF DEFENDANT	
BARGER & WOLEN LLP 650 CALIFORNIA STREET NINTH FLOOR SAN FRANCISCO, CA 94108 (415) 434-2800	BERRY PETROLEUM COMPANY GROUP TERM EMPLOYEE BENEFIT PLAN; ORDER 1:13-CV-00908 LJO-BAM	