

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 PETROLUUM 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.

1 Dated: August 19, 2013

BARGER & WOLEN LLP

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3 By: /s/ J. RUSSELL STEDMAN
4 J. RUSSELL STEDMAN
5 BRENDAN V. MULLAN
6 Attorneys for Defendant
7 SUN LIFE ASSURANCE COMPANY
8 OF CANADA

9
10 Dated: August 19, 2013

DONAHUE & HORROW, LLP

11 By: /s/ MICHAEL B. HORROW
12 MICHAEL B. HORROW
13 NICHOLE D. PODGURSKI
14 Attorneys for Plaintiff
15 LONNIE BOTTS

16 **ORDER**

17 Based upon the foregoing Stipulation, and good cause appearing therefor, Defendant Berry
18 Petroleum Company Group Term Employee Benefit Plan shall be and hereby is dismissed from this
19 action without prejudice with the parties to bear their own attorneys' fees and costs directly related
20 to the instant Stipulation and the dismissal of the Plan. Sun Life shall remain the only named
21 defendant.

22 IT IS SO ORDERED.

23 Dated: August 19, 2013

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE