

1 SEDGWICK, DETERT, MORAN & ARNOLD LLP  
 BRUCE D. CELEBREZZE Bar No. 102181  
 2 DENNIS G. ROLSTAD Bar No. 150006  
 ERIN A. CORNELL Bar No. 227135  
 3 One Market Plaza  
 Steuart Tower, 8th Floor  
 4 San Francisco, California 94105  
 Telephone: (415) 781-7900  
 5 Facsimile: (415) 781-2635  
 dennis.rolstad@sdma.com

6 Attorneys for Defendant  
 7 HARTFORD LIFE AND ACCIDENT INSURANCE  
 COMPANY, erroneously sued herein as HARTFORD  
 8 LIFE INSURANCE COMPANY

9 UNITED STATES DISTRICT COURT  
 10 NORTHERN DISTRICT OF CALIFORNIA

11 PENNY BENDER,  
 12 Plaintiff,  
 13 v.

CASE NO. C 09-01163 MMC

**STIPULATION AND ~~PROPOSED~~  
 ORDER RE DISMISSAL OF PLAINTIFF'S  
 SECOND AND THIRD CLAIMS FOR  
 RELIEF WITH PREJUDICE**

14 HARTFORD LIFE INSURANCE  
 COMPANY as Administrator and  
 15 Fiduciary of the Bertelsmann, Inc.,  
 Employee Protection Plan Number 503;  
 16 THE BERTELSMANN, INC.,  
 EMPLOYEE PROTECTION PLAN  
 17 NUMBER 503,  
 18 Defendants.

19  
 20 IT IS HEREBY STIPULATED AND AGREED by and between plaintiff Penny Bender  
 21 and defendant Hartford Life And Accident Insurance Company ("Hartford"), by and through  
 22 their respective attorneys of record herein, that plaintiff's second claim for relief under ERISA  
 23 Section 502(a)(3) for breach of fiduciary duty, and plaintiff's third claim for relief for statutory  
 24 penalties under ERISA Section 502(c), are to be DISMISSED from the complaint as against all  
 25 named defendants, with PREJUDICE. The parties ask that Hartford's Motion to Dismiss  
 26 (Docket no. 4) be taken off calendar upon issuance of this Order as the motion will be moot.  
 27 Hartford will file an answer to plaintiff's first claim for relief within ten days of the Court's  
 28 issuance of this Order. The parties note that Defendant The Bertelsmann, Inc. Employee

1 Protection Plan Number 503 is to file an answer to plaintiff's first claim for relief on or before  
2 June 15, 2009 in accordance with the returned waiver of service.

3 IT IS SO STIPULATED.

4 DATED: May 15, 2009 ROBOOSTOFF & KALKIN

5  
6 By: s/Scott Kalkin  
7 Scott Kalkin  
8 Attorneys for Plaintiff  
9 PENNY BENDER

9 DATED: May 15, 2009 SEDGWICK, DETERT, MORAN & ARNOLD LLP

10  
11 By: s/Dennis G. Rolstad  
12 Dennis G. Rolstad  
13 Erin A. Cornell  
14 Attorneys for Defendant  
15 HARTFORD LIFE AND ACCIDENT INSURANCE  
16 COMPANY, erroneously sued herein as HARTFORD  
17 LIFE INSURANCE COMPANY

15 I hereby attest that I have on file all holograph signatures for any signatures indicated by  
16 a "conformed" signature (/s/) within this efiled document.

17 s/Dennis G. Rolstad  
18 Dennis G. Rolstad

19 IT IS SO ORDERED that plaintiff's second and third claims for relief are DISMISSED  
20 from the complaint as against all named defendants, with PREJUDICE, that Hartford's motion to  
21 dismiss (Docket no. 4) is taken off calendar as moot, and that defendant Hartford will file its  
22 answer to plaintiff's first claim for relief within ten days of the issuance of this Order.  
23

24 DATED: May 18, 2009

25  
26   
27 HONORABLE MAXINE M. CHESNEY  
28 UNITED STATES DISTRICT JUDGE