

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

TED BAXTER,	)	
	)	
Plaintiff,	)	
	)	Case No.: 1:09-cv-03818
vs.	)	
	)	Honorable Robert M. Dow, Jr.
SUN LIFE ASSURANCE	)	
COMPANY OF CANADA,	)	
	)	
Defendant.	)	

**DEFENDANT’S MOTION FOR JUDGMENT UNDER FED.R.CIV.P. 52**

Defendant, Sun Life Assurance Company of Canada, moves for judgment on the written record, pursuant to Fed.R.Civ.P. 52 and the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §1001, *et seq.* (“ERISA”). In support hereof, Defendant attaches (a) the Declaration of Steven J. Leask, with exhibits; and (b) the Deposition of Robert Goodall. Defendant also incorporates by reference its Trial Brief and Statement of Facts, filed contemporaneously herewith.

Respectfully submitted,

OGLETREE, DEAKINS, NASH, SMOAK & STEWART,  
P.C.

/s/ Mark E. Schmidtke  
 Mark E. Schmidtke, #17833-45  
 Eric P. Mathisen, #19475-71 (IN)  
 225 Aberdeen Drive, Suite F  
 Valparaiso, IN 46385  
 Tel: (219) 242-8666  
 Fax: (219) 242-8669  
 mark.schmidtke@ogletreedeakins.com  
 eric.mathisen@ogletreedeakins.com

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing document has been filed electronically, on September 30, 2010. Notice of this filing will be served on all counsel of record via the Court's ECF filing system as follows:.

Mark D. DeBofsky  
Law Offices of Daley, DeBofsky & Bryant  
55 W Monroe St., Ste 2440  
Chicago, IL 60603

/s/ Mark E. Schmidtke \_\_\_\_\_

OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.  
225 Aberdeen Drive, Suite F  
Valparaiso, IN 46385  
Telephone: (219) 242-8666  
Facsimile: (219) 242-8669