

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

FREDERICK SUTHERLAND,	:	
	:	
Plaintiff,	:	CIVIL ACTION
	:	
v.	:	NO.: 3:16-CV-00182-FDW-DSC
	:	
SUN LIFE ASSURANCE COMPANY	:	
OF CANADA,	:	
	:	
Defendant.	:	
	:	

**ORDER**

**THIS MATTER** is before the Court on “Plaintiff’s Motion to Compel Discovery” (document #9), “Motion to Extend Discovery Deadline” (document #11) and “Defendant’s ... Motion to Extend Summary Judgment Motion Deadlines” (document #15), as well as the parties’ briefs and exhibits.

On September 29, 2016, following a telephonic discovery conference, the Court ordered that “Plaintiff [be] allowed to conduct 30(b)(6) deposition and document production on issue regarding prorating bonus over a three month period.” Docket entry dated September 29, 2016.

The parties scheduled the 30(b)(6) deposition for October 19, 2016. Plaintiff’s counsel requested to take the deposition telephonically. Sun Life’s designee, Sorana Babau, Associate Director of Appeals, attended the deposition at Sun Life’s counsel’s office in Boston, Massachusetts.

Plaintiff’s counsel asked Ms. Babau if she had performed the search for the documents that Defendant produced on the proration topic. Ms. Babau replied that the

search had been performed by another person, Donna Zehn. Ms. Babau also testified, however, that she had reviewed the documents and was confident that production was complete. She also testified that she was the person responsible for training and other procedures related to the manner in which Defendant prorated bonuses and was prepared to testify on that topic.

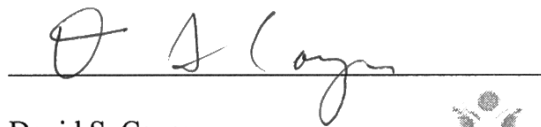
Rather than complete the deposition of Ms. Babau, Plaintiff's counsel suspended it over Defendant's objection. Plaintiff filed this Motion to Compel Defendant to designate Ms. Zehn as its Rule 30(b)(6) witness.

The Court concludes that Ms. Babau was the proper designee. For this and the other reasons stated in Defendant's brief (document #13), Plaintiff's Motion to Compel (document #9) is denied.

Plaintiff's "Motion to Extend Discovery Deadline" (document #11) and "Defendant's ... Motion to Extend Summary Judgment Motion Deadlines" (document #15) are denied as moot.

**SO ORDERED.**

Signed: December 5, 2016



David S. Cayer  
United States Magistrate Judge

