

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION**

BRETT MERENESS, in his capacity  
as Personal Representative of the  
Estate of Jacquelyn Ann Mereness  
and in his capacity as next of kin to  
Jacquelyn Ann Mereness,

Plaintiff,

Case No. 3:24-cv-802-TJC-PDB

v.

SUN LIFE ASSURANCE  
COMPANY OF CANADA, a Foreign  
Corporation,

Defendant.

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**ORDER**

**THIS CASE** is before the Court on Plaintiff's Notice of Voluntary Dismissal of Count II – Breach of Fiduciary Duty, Doc. 22. Although the notice cites Rule 41(a)(1) Fed. R. Civ. P. as authority to dismiss Count II, the appropriate mechanism to dismiss a single count is to seek leave to file an amended complaint. See Campbell v. Altec Indus., Inc., 605 F.3d 839, 841 n.1 (11th Cir. 2010) (“A plaintiff wishing to eliminate particular claims or issues from the action should amend the complaint under [Federal] Rule [of Civil Procedure] 15(a) rather than dismiss under Rule 41(a).”) (quoting Klay v. United Healthgroup, Inc., 376 F.3d 1092, 1106 (11th Cir. 2004)).

Accordingly, the Court will construe the notice as a motion for leave to amend and it is hereby

**ORDERED:**

1. No later than **December 20, 2024**, Plaintiff shall file a third amended complaint.
2. No later than **January 10, 2025**, Defendant shall file its answer to the third amended complaint.
3. Defendant Sun Life Assurance Company of Canada's Motion to Dismiss Count II of Plaintiff's Second Amended Complaint, Doc. 20, is **DENIED as moot**.

**DONE AND ORDERED** in Jacksonville, Florida the 2nd day of December, 2024.



*Timothy J. Corrigan*  
TIMOTHY J. CORRIGAN  
Senior United States District Judge

ddw

Copies:

Counsel of record