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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
(FRESNO DIVISION)

THOMAS L. ANDERSON,
Plaintiff,

v.

STRAUSS NEIBAUER & ANDERSON
APC PROFIT SHARING 401(K) PLAN;
DOUGLAS L. NEIBAUER, as an
individual and as a fiduciary of the
Strauss Neibauer & Anderson APC
Profit Sharing 401(k) Plan; STRAUSS
NEIBAUER, A PROFESSIONAL
CORPORATION, a fiduciary/plan
sponsor of the Strauss Neibauer &
Anderson APC Profit Sharing 401(k)
Plan; TOTAL BENEFIT SERVICES,
INC., a California corporation, a
fiduciary of the Strauss Neibauer &
Anderson APC Profit Sharing 401(k)
Plan;
Defendants.

Case No. 1:09-CV-01446-OWW-DLB
(member case: 1:10-CV-02195)

**ORDER GRANTING MOTION TO DISMISS
FIRST AMENDED COMPLAINT FILED IN
CONSOLIDATED
CASE NO. 1:10-CV-02195**

**Hearing Date: January 3, 2011
Time: 10:00 a.m.
Ctrm: 3**

Honorable Oliver W. Wanger

STRAUSS NEIBAUER, a Law
Corporation,
Plaintiff,

v.

THOMAS L. ANDERSON and LYNN
ANDERSON, individually and as
husband and wife, and DOES 1-25,
inclusive,
Defendants.

Case No.: 10-CV-02195-OWW

1 Defendants in consolidated action no. 1:10-CV-02195, Thomas L. Anderson and
2 Lynn Anderson (“the Andersons”) motion to dismiss the First Amended Complaint in
3 that action was heard by the Honorable Oliver W. Wanger on January 3, 2011; C. Mark
4 Humbert of Green & Humbert appeared for the Andersons, and Douglas L. Neibauer,
5 Esq. appeared for the responding party and plaintiff therein, Strauss Neibauer.
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8 The Court, after considering the Andersons’ Motion and cited authority, exhibits, the
9 record in the related cases, and plaintiff Strauss Neibauer’s opposition to said Motion,
10 and good cause appearing, and on the basis of the reasoning set forth in the Court’s
11 Memorandum Decision dated January 18, 2011 and filed in lead case 1:09-cv-1446,
12

13 **HEREBY ORDERS:**

- 14 1. Moving Parties’ motion to dismiss is granted, as follows:
- 15 a. Strauss Neibauer’s first claim for relief is DISMISSED WITH
16 PREJUDICE.
 - 17 b. Strauss Neibauer’s second claim for relief is DISMISSED WITH
18 PREJUDICE.
 - 19 c. Strauss Neibauer’s third claim for relief is DISMISSED
20 WITHOUT PREJUDICE.
 - 21 d. Strauss Neibauer’s fourth claim for relief is DIMISSED
22 WITHOUT PREJUDICE.
 - 23 e. Strauss Neibauer’s fifth claim for relief is DISMISSED WITH
24 PREJUDICE.
- 25 2. Judgment dismissing the entire First Amended Complaint filed in
26 Action No.: 10-CV-02195-OWW shall be entered forthwith in accordance with
27 the parties settlelment.
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1 IT IS SO ORDERED.

2 Dated: February 4, 2011

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE

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