

Jonathan C. Dickey, No. 88226  
 Steven J. Johnson, No. 121568  
 GIBSON, DUNN & CRUTCHER LLP  
 1881 Page Mill Road  
 Palo Alto, CA 94304-1211  
 Telephone: (650) 849-5300  
 Facsimile: (650) 849-5333  
 Email: jdickey@gibsondunn.com  
 sjjohnson@gibsondunn.com

R. Bradford Huss, No. 71303  
 Clarissa A. Kang, No. 210660  
 Sean T. Strauss, No. 245811  
 TRUCKER ♦ HUSS, A Professional Corporation  
 One Embarcadero Center, 12<sup>th</sup> Floor  
 San Francisco, California 94111  
 Telephone: (415) 788-3111  
 Facsimile: (415) 421-2017  
 Email: bhuss@truckerhuss.com  
 ckang@truckerhuss.com  
 sstrauss@truckerhuss.com

Attorneys for Defendant  
 FRANKLIN RESOURCES, INC.

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

JOHN SENDER,

Plaintiff,

v.

FRANKLIN RESOURCES, INC. and DOES  
 1-15,

Defendants.

CASE NO. 11-cv-3828 EMC

**SECOND STIPULATION AND [PROPOSED]  
 ORDER EXTENDING DISCOVERY  
 DEADLINES**

WHEREAS, this Court’s First Amended Case Management and Pretrial Order for Jury Trial (“First Amended Case Management Order”) (ECF No. 146), entered on October 19, 2015, set a non-expert discovery cut-off of February 18, 2016, an expert discovery cut-off of March 31, 2016, and a trial date of August 15, 2016;

WHEREAS, on January 5, 2016, the Court entered an Order Extending Discovery Deadlines, based on a stipulation of the Parties, amending the Court’s First Amended Case Management and

1 Pretrial Order and extending the non-expert discovery deadline to April 30, 2016, the deadline to  
2 disclose expert reports to April 15, 2016, the deadline for expert rebuttal reports to May 6, 2016, and  
3 the expert discovery deadline to May 25, 2016 (“Second Amended Case Management Order”) (ECF  
4 No. 178);

5 WHEREAS, the Parties have diligently engaged in discovery following the First and Second  
6 Amended Case Management Orders;

7 WHEREAS, since the First and Second Amended Case Management Orders, Defendant has  
8 produced fifty-eight boxes of hardcopy documents and over five thousand pages of documents from  
9 electronically stored information from nine custodians pursuant to Orders of the Court dated December  
10 22, 2015, and January 14, 2016 (ECF Nos. 167, 181); and

11 WHEREAS, Franklin is continuing to copy for production to Plaintiff certain documents that  
12 were designated by Plaintiff for copying following inspection;

13 WHEREAS, since the First and Second Case Management Orders, Plaintiff has produced 1,424  
14 pages of documents and answered in detail 18 interrogatories and 39 requests for admission, and was  
15 deposed on March 4, 2016;

16 WHEREAS, since the First and Second Amended Case Management Orders, the Parties have  
17 engaged in extensive discovery motion practice. Such motion practice includes the December 7, 2015  
18 Letter Brief Regarding Defendant’s Privilege Log and the Fiduciary Exception to the Attorney-Client  
19 Privilege (ECF No. 170), the February 12, 2016 Letter Brief Regarding ERISA discovery Dispute (ECF  
20 No. 185), and the March 7, 2016 Letter Brief Regarding Dispute Concerning Section 419 Depositions  
21 (ECF No. 196) before Magistrate Judge Kim, and three objections by Plaintiff to the rulings by  
22 Magistrate Judge Kim on those motions, submitted to the Court, as follows: Plaintiff’s March 3, 2016  
23 Objection to a Portion of the Magistrate Judge’s February 18, 2016 Order Re Attorney-Client Privilege  
24 (ECF No. 194), Plaintiff’s March 17, 2016 Motion for Relief From Nondispositive Pretrial Order of  
25 Magistrate Judge (ECF No. 207), and Plaintiff’s March 23, 2016 Motion for Relief from  
26 Nondispositive Pretrial Order of Magistrate Judge (ECF No. 210);

27 WHEREAS, in light of the significant document productions that have been ongoing, the need  
28 for time to analyze those documents, and the motion practice concerning privilege issues and the scope

1 of depositions, the Parties were not able to conduct certain depositions in March of 2016 and may not  
2 be able to conduct them all in April of 2016;

3 WHEREAS, the Parties are currently meeting and conferring over recent discovery requests  
4 from Plaintiff concerning *inter alia* other ESOP beneficiaries, Defendant's redactions of documents on  
5 privilege and privacy grounds, and other discovery issues, which may result in additional motion  
6 practice;

7 WHEREAS, the Parties have taken the deposition of Plaintiff, are in the process of scheduling  
8 ten depositions for deponents located in California, Florida, New Jersey, and New York, and anticipate  
9 scheduling additional depositions prior to the fact discovery cutoff;

10 WHEREAS, the scheduling of certain depositions has been further complicated by requests  
11 from certain witnesses, including several third-party witnesses, to postpone their depositions for  
12 personal reasons, including a request from Nicole Smith to postpone her deposition due to the recent  
13 passing of her mother, requests to reschedule depositions from Earl Johnson in Los Angeles, Judith  
14 Zitzewitz in Florida, Bank of New York Mellon in New York, and Linda Sender in Sacramento, as well  
15 as a request from witness Charles Johnson in Florida to reschedule his deposition to the first week of  
16 May when he will be in California on other business and could be deposed here;

17 WHEREAS, the Parties have met and conferred regarding the foregoing and agree that under  
18 the circumstances there is good cause to request a modest extension of the deadlines for non-expert and  
19 expert discovery to accommodate the analysis of recently-produced documents, the resolution of  
20 pending discovery disputes, the taking of remaining depositions, including a number of out of state  
21 depositions, and other additional discovery by the Parties; and

22 WHEREAS, the Parties are not requesting any continuance of the August 15, 2016 trial date or  
23 July 19, 2016 pre-trial conference set forth in the Court's October 19, 2015 First Amended Case  
24 Management and Pretrial Order (ECF No. 146);

25 THEREFORE, good cause existing, IT IS HEREBY STIPULATED AND AGREED, by and  
26 between the Parties hereto, through their counsel of record, that they jointly request a modification of  
27 the deadlines for fact and expert discovery in the Court's Order Extending Discovery Deadlines of  
28 January 5, 2016 (ECF. No. 178), and respectfully request the Court to adopt the following new

1 deadlines:

2 1. The Parties respectfully request that the deadline for non-expert discovery be extended from  
3 April 30, 2016 to May 31, 2016;

4 2. The Parties respectfully request that the deadline for disclosing expert opening reports be  
5 extended from April 15, 2016 to May 16, 2016;

6 3. The Parties respectfully request that the deadline for disclosing expert rebuttal reports be  
7 extended from May 6, 2016 to June 6, 2016; and

8 4. The Parties respectfully request that the deadline for expert discovery be extended from May  
9 25, 2016 to June 24, 2016.

10 Dated: April 5, 2016

11 CERA LLP

GIBSON, DUNN & CRUTCHER LLP

12  
13 By: /s/ Solomon B. Cera  
Solomon B. Cera

By: /s/ Steven J. Johnson  
Steven J. Johnson

14 Solomon B. Cera  
15 Louis A. Kessler  
595 Market Street, Suite 2300  
16 San Francisco, California 94105  
Tel: (415) 777-2230  
17 Fax: (415) 777-5189  
scera@cerallp.com  
18 lakessler@cerallp.com

Jonathan C. Dickey  
Steven J. Johnson  
1881 Page Mill Road  
Palo Alto, CA 94304-1211  
Tel: (650) 849-5300  
Fax: (650) 849-5333  
jdickey@gibsondunn.com  
19 sjjohnson@gibsondunn.com

19 *Attorneys for Plaintiff*  
20 *John Sender*

TRUCKER ♦ HUSS, A Professional Corporation

21 By: /s/ R. Bradford Huss  
R. Bradford Huss

22 R. Bradford Huss  
23 Clarissa A. Kang  
24 Sean T. Strauss  
One Embarcadero Center, 12<sup>th</sup> Floor  
San Francisco, California 94111  
25 Tel: (415) 788-3111  
Fax: (415) 421-2017  
bhuss@truckerhuss.com  
ckang@truckerhuss.com  
26 sstrauss@truckerhuss.com

27 *Attorneys for Defendant*  
28 *Franklin Resources, Inc.*

I attest that I have obtained Mr. Cera's and Mr. Huss's concurrence in the filing of this document.

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~~[PROPOSED]~~ ORDER

PURSUANT TO STIPULATION, the following discovery deadlines are extended as follows:  
(1) the non-expert discovery cut-off is extended from April 30, 2016 to May 31, 2016; (2) the deadline for disclosing expert opening reports is extended from April 15, 2016 to May 16, 2016; (3) the deadline for disclosing expert rebuttal reports is extended from May 6, 2016 to June 6, 2016; and (4) the expert discovery cut-off is extended from May 25, 2016 to June 24, 2016. All other dates established by the First Amended Case Management and Pretrial Order for Jury Trial of October 19, 2015 are unchanged.

IT IS SO ORDERED.

Dated: April 8, 2016 \_\_\_\_\_

