

1 UNITED STATES DISTRICT COURT

2 Northern District of California

3 JANICE KENNEDY,

4 Plaintiff(s),

No. C 07-00371 CW (MEJ)

5 v.

**DISCOVERY ORDER RE DKT. ##143,
144**6 JACKSON NATIONAL LIFE INSURANCE
7 COMPANY,8 Defendant(s).
9 _____**ORDER CONTINUING CLASS
CERTIFICATION MOTION
DEADLINES**

10 On October 30, 2009, the parties in this action filed two joint letters detailing discovery
11 disputes concerning Plaintiff's document requests. (Dkts. ##143, 144.) On November 5, 6, 12, and
12 16, 2009, the Court held telephonic conference calls and in-person hearings with the parties to
13 address certain issues raised in the joint letters and to discuss the most efficient resolution to the
14 disputes. The Court now rules as follows:

15 With respect to Plaintiff's request to compel production of documents responsive to its
16 Request for Production No. 44, the Court **GRANTS** Plaintiff's request. However, Defendant may
17 choose whether it shall produce documents and/or electronic data responsive to Request No. 44
18 subparts 1-22 either: (a) for all annuity products issued to person 65 years of age or older at the time
19 of issue, or (b) a random sample of 1,000 participants. Said production shall be completed by
20 January 8, 2010. If Defendant chooses the random sample option, the parties shall meet and confer
21 within four (4) days to determine the random sample.

22 With respect to Plaintiff's request to compel production of documents and electronic data
23 responsive to its Document Request No. 45, the Court **GRANTS** Plaintiff's request. Said
24 production shall be completed by December 11, 2009.

25 With respect to Plaintiff's request to compel production of documents responsive to
26 Document Request No. 46, the Court **GRANTS** Plaintiff's request. Said production shall be
27 completed by December 11, 2009.

28 With respect to Plaintiff's request to compel production of documents responsive to

1 Document Request Numbers 47 through 54, the Court **DENIES** Plaintiff's request as currently
2 framed.

3 With respect to Plaintiff's request to compel production of Actuarial Documents for products
4 other than the Bonus Max II, the Court rules as follows. The Court finds that Plaintiff has not
5 proffered any persuasive explanation excusing her delay in re-moving to compel production of these
6 document ten months after the Court issued its December 8, 2008 Order and just weeks before the
7 parties' class certification briefs are due. As Judge Wilken indicated in her October 14, 2009 Order,
8 if Plaintiff disagreed with the undersigned's ruling, she could have filed a Motion with Judge
9 Wilken pursuant to Local Rule 72-2. Moreover, to the extent that Plaintiff believes that this ruling
10 will adversely affect her ability to present evidence in support of her class certification motion or in
11 prosecuting this case, the Court notes that its rulings with respect to Plaintiff's other requests to
12 compel production discussed above not only provide Plaintiff with the type of evidence she seeks
13 with respect to products other than the Bonus Max II, but strikes a fair compromise between the
14 parties given the timing of Plaintiff's requests and the new burden on Defendant to expeditiously
15 produce the documents. Accordingly, the Court **DENIES** Plaintiff's request to compel production
16 of Actuarial Documents regarding products other than Bonus Max II.

17 Further, after conferral with Judge Wilken, the Court hereby modifies the class certification
18 briefing schedule as follows:

19 Plaintiff's class certification motion (with expert reports) shall be due on or before January
20 28, 2010.

21 Defendant's opposition (with expert reports) shall be due on or before February 19, 2010

22 Plaintiff's reply shall be due on or before March 12, 2010.

23 A hearing on the motion for class certification will be held on April 8, 2010 at 2:00 p.m. (As
24 previously scheduled).

25 **IT IS SO ORDERED.**

26 Dated: November 16, 2009

27 
28 Maria-Elena James
Chief United States Magistrate Judge