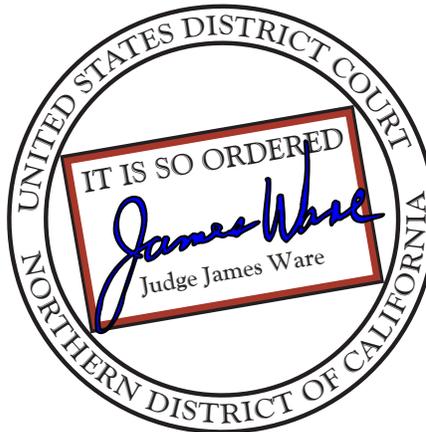


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 15 THE MCGRAW-HILL COMPANIES, INC.



17 UNITED STATES DISTRICT COURT
 18 NORTHERN DIVISION OF CALIFORNIA
 19 SAN JOSE DIVISION

20 MARY ANN CURRY, SUSAN SWANSON,
 21 and MILO KUSHNER individually, on behalf of
 themselves, on behalf of all persons similarly
 22 situated, and on behalf of the general public,
 Plaintiff,

23 v.

24 CTB MCGRAW-HILL, LLC; MCGRAW-HILL
 25 COMPANIES, INC.,
 Defendants.

) Case No. C-05-04003-JW

) **JOINT STIPULATION AND [PROPOSED]**
) **ORDER OF DISMISSAL**

) **[UNCERTIFIED] CLASS ACTION**

) **[FED. R. CIV. P. 41(a)(1)(A)(ii)]**

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 27
 28 **JOINT STIPULATION AND [PROPOSED] ORDER OF DISMISSAL**

1 Pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, Plaintiffs and
2 Defendants, through their undersigned attorneys of record, stipulate as follows:

- 3 1. The Ninth Circuit's decision in this case affirmed this Court's dismissal with prejudice
4 of Plaintiffs' ERISA claims but directed that the judgment be modified to dismiss the
5 state law claims without prejudice.
- 6 2. Plaintiffs have determined that the state law claims would be substantially limited in
7 scope based on the preemption and/or collateral estoppel effect of the dismissal of the
8 ERISA claims.
- 9 3. Because Plaintiffs have determined that the remaining state law claims are so limited in
10 scope that further prosecution of class claims is not economically feasible, the parties
11 agree to dismissal of the remaining state law claims with prejudice under F.R. Civ. P. 41,
12 with the parties to bear their own costs.

13
14 Dated: 3/6/09

CLARK & MARKHAM, LLP

15 By: [Signature]

16 David R. Markham

17 Attorneys for Plaintiffs

18
19 Dated: March 6, 2009

LITTLER MENDELSON

20 By: [Signature]

21 Nancy L. Ober

22 Attorneys for Defendants

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28 **JOINT STIPULATION AND [PROPOSED] ORDER OF DISMISSAL**

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~~PROPOSED~~ ORDER

Based on the foregoing stipulation of the parties, the remaining state law claims in this action shall be dismissed with prejudice, with the parties to bear their own costs. The Clerk shall close this file.

Dated: March 6, 2009



Hon. James Ware

Judge of the United States District Court