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6 Attorneys for Plaintiff
 PATRICK PIERCE

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 SAN JOSE DIVISION

11
 12 PATRICK PIERCE,
 13 Plaintiff,
 14 v.
 15 WELLS FARGO BANK,
 and DOES 1 through 20,
 16 Defendants.

CASE NO. C08-01554 JF (HRL)

**STIPULATION AND
~~PROPOSED~~ ORDER
 GRANTING LEAVE TO FILE
 SECOND AMENDED
 COMPLAINT**

17
 18 WHEREAS:

19 A. By order dated July 18, 2008, the Court granted leave to file an amended complaint
 20 within thirty (30) days of the date of the order;

21
 22 B Plaintiff Patrick Pierce (“Pierce”) filed a First Amended Complaint on August 29,
 23 2008;

24 C. The parties engaged in an unsuccessful settlement conference before Hon. Howard
 25 Lloyd on October 17, 2008;

26 D. Following the settlement conference Pierce decided to seek leave to file a further
 27 amended complaint, and asked defendant Wells Fargo Bank, N.A. (“WFB”) to stipulate to the filing
 28

1 of such further amended complaint;

2 E. WFB having agreed to stipulate to the filing of a further amended complaint as
3 requested by Piece. In so stipulating, WFB does not indicate that it believes the new amended
4 complaint contains any actionable claims or claims that are not preempted by ERISA. WFB
5 reserves all its legal rights to defend against such claims including, but not limited to, moving to
6 dismiss all the claims set forth in the amended complaint.
7

8 NOW THEREFORE IT IS HEREBY STIPULATED by and between Pierce and WFB,
9 through their respective counsel, that Pierce may file a further amended complaint within ten (10)
10 days of the entry of the order stipulated to herein.

11 Dated: October 31 , 2008 CARR & FERRELL LLP

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14 By: /s/ Stuart C. Clark
15 STUART C. CLARK
16 Attorneys for plaintiff Patrick Pierce

17 Dated: October 30 , 2008 ORRICK, HERRINGTON & SUTCLIFFE LLP

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19 By: /s/ Greg J. Richardson
20 GREG J. RICHARDSON
21 Attorneys for Defendant
22 WELLS FARGO BANK, N.A.

23 PURSUANT TO STIPULATION, IT IS SO ORDERED.

24 DATED: November 5
25 October , 2008

26 
27 JEREMY FOGEL
28 UNITED STATES DISTRICT JUDGE