1 2 3 4 5 6 7 8 9	MAYER BROWN LLP Elizabeth Mann (SBN 106524) emann@mayerbrown.com 350 South Grand Avenue, 25th Floor Los Angeles, CA 90071 Telephone: (213) 229-9500 Facsimile: (213) 625-0248 MAYER BROWN LLP Stanley J. Parzen (admitted pro hac vice) sparzen@mayerbrown.com 71 South Wacker Drive Chicago, IL 60606 Telephone: (312) 782-0600 Facsimile: (312) 701-7711 Attorneys for Defendant ERNST & YOUNG LLP	
10	UNITED STATES DI	STDICT COUDT
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12	EASTERN DISTRICT OF CALIFOR	NIA, SACKAMENTO DIVISION
13 14	SPECIAL SITUATIONS FUND III QP, L.P.,	Case No. 2:14-cv-2571-MCE-KJN
14	SPECIAL SITUATIONS CAYMAN FUND, L.P., and DAVID M. FINEMAN, Individually	CONSOLIDATED CLASS ACTION
15	and On Behalf of All Others Similarly Situated., Plaintiffs,	STIPULATION AND ORDER
10	v.	CONTINUING DISCOVERY STAY
17	MARRONE BIO INNOVATIONS, INC.,	Judge: Hon. Morrison C. England, Jr.
18 19	PAMELA G. MARRONE, JAMES B. BOYD, DONALD J. GLIDEWELL, HECTOR ABSI,	
19 20	ELIN MILLER, RANJEET BHATIA, PAMELA CONTAG, TIM FOGARTY, LAWRENCE	
20	HOUGH, JOSEPH HUDSON, LES LYMAN, RICHARD ROMINGER, SHAUGN STANLEY,	
22	SEAN SCHICKEDANZ, and ERNST & YOUNG LLP,	
22	Defendants.	
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	STIPULATIO	N AND ORDER CONTINUING DISCOVERY STAY, CASE NO. 2:14-CV-2571-MCE-KJN

1 Lead Plaintiffs Special Situations Fund III QP, L.P. and Special Situations Cayman Fund, 2 L.P. ("Lead Plaintiffs"), additional named plaintiff David M. Fineman ("Fineman" and, together 3 with Lead Plaintiffs, "Plaintiffs"), and Defendant Ernst & Young LLP ("EY" or "Defendant" and, 4 together with Plaintiffs, the "Parties"), by and through undersigned counsel, hereby recite and 5 stipulate, subject to the approval of the Court, the following as concerns a continuation of the stay 6 on all discovery and other proceedings in the action pending the outcome of continuing 7 discussions between and among the parties. 8 RECITALS 9 WHEREAS, Lead Plaintiffs filed a purported class action complaint on November 3, 2014 10 [Docket No. 1], against Defendants Marrone Bio Innovations, Inc. ("MBII" or the "Company") 11 and certain of MBII's directors and officers (collectively, the "MBII Defendants"); 12 WHEREAS, by order dated February 13, 2015 [Docket No. 18], the Court consolidated 13 related actions, designating the instant action as the Master File, administratively closed the 14 related actions, and appointed Special Situations Fund III QP, L.P. and Special Situations Cayman 15 Fund, L.P. as Lead Plaintiffs and Lowenstein Sandler LLP as Lead Counsel; 16 WHEREAS, on that same day the Court issued its Order Requiring Joint Status Report, 17 which provides that the parties to this action must prepare and submit to the Court a joint status 18 report that includes, *inter alia*, a discovery plan pursuant to Fed. R. Civ. P. 26(f) and responses to 19 certain other discovery-related matters; WHEREAS, Plaintiffs filed a Consolidated Amended Class Action Complaint on or about 20 September 1, 2015 [Docket No. 35], which named EY as an additional Defendant; 21 WHEREAS, Plaintiffs filed a Second Consolidated Amended Class Action Complaint on 22 or about January 11, 2016 [Docket No. 44]; 23 WHEREAS, on April 4, 2016, Plaintiffs and the MBII Defendants reached an agreement in 24 principle to settle the claims against the MBII Defendants; 25 WHEREAS, Plaintiffs filed a Third Consolidated Amended Complaint ("TAC") on June 1, 26 2016 [Docket No. 76]; 27 WHEREAS, on July 1, 2016, EY moved to dismiss the claims against it set forth in the 28

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TAC [Docket No. 84];

WHEREAS, the Court approved the settlement between Plaintiffs and the MBII Defendants in an Order and Final Judgment as to Settling Parties, dated September 27, 2016 [Docket No. 104], dismissing all claims against the MBII Defendants from the action, which judgment is now final;

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WHEREAS, EY is the only Defendant remaining in the action;

WHEREAS, by Memorandum and Order dated March 31, 2017 [Docket No. 106], the Court denied EY's motion to dismiss;

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WHEREAS, EY filed its Answer to the TAC on April 25, 2017;

WHEREAS, by virtue of a series of so ordered Stipulations and the automatic stay of
discovery imposed by the Private Securities Litigation Reform Act of 1995 (the "<u>PSLRA</u>"), all
discovery in this action, including the obligation to file a Rule 26(f) discovery plan and the
Parties' responses to the discovery-related topics in the Order Requiring Joint Status Report, has
been stayed since the inception of the action;

WHEREAS, the Parties previously informed the Court that they intended to engage in a
conference or series of conferences to discuss the factual underpinnings of this case and to explore
the possibility of a resolution of the claims against EY in this action;

WHEREAS, the Parties have met to discuss the case against EY and those discussions are
continuing:

WHEREAS, the Parties wish to avoid the burden and expense of discovery while they continue to engage in these discussions; and

WHEREAS, the statements made in this Stipulation are for the purposes of this Stipulation
alone and are not otherwise admissible for any other purpose.

## STIPULATION

THEREFORE, IT IS HEREBY STIPULATED AND AGREED by the Parties, through
their respective counsel of record, as follows:

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1. To allow the Parties to continue to explore a potential resolution of this action
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before undertaking the burden and expense of discovery, all discovery in this action, including but

1	not limited to the filing of a Rule 26(f) discovery plan and/or responding to the discovery-related	
2	topics in the Order Requiring Joint Status Report, is stayed for a further sixty (60) days following	
3	adoption of this Stipulation by the Court (the "Further Stay").	
4	2. Following the Further Stay, if the action has not been resolved the parties shall	
5	meet and confer concerning discovery within ten (10) days after the expiration of the Further Stay,	
6	and within twenty (20) days after that submit a Rule 26(f) discovery plan to the Court and/or	
7	respond to the discovery-related topics in the Order Requiring Joint Status Report.	
8	3. In the event the Court declines to approve this stipulation, the Parties shall have	
9	thirty (30) days from said denial to submit a Rule 26(f) discovery plan to the Court and/or respond	
10	to the discovery-related topics in the Order Requiring Joint Status Report.	
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12	Dated: August 29, 2017LOWENSTEIN SANDLER LLP	
13	By: /s/ Steven M. Hecht (as authorized on 8/28/17)	
14	Steven M. Hecht	
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	New York, NY 10020 Tel: (212) 262-6700	
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18	Attorneys for Plaintiffs SPECIAL SITUATIONS FUND III QP, L.P.;	
19	SPECIAL SITUATIONS CAYMAN FUND, L.P.; AND DAVID M. FINEMAN	
20	Dated: August 29, 2017 MAYER BROWN LLP	
21		
22	By: <u>/s/ Elizabeth Mann</u> Elizabeth Mann	
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27	Attorneys for Defendant ERNST & YOUNG LLP	
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	STIPULATION AND ORDER CONTINUING DISCOVERY STAY, CASE NO. 2:14-CV-2571-MCE-KJN	

1	ORDER
2	The Court hereby adopts the parties' above stipulation as its order.
3	IT IS SO ORDERED.
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5	Dated: August 30, 2017
6	Molan CEX.
7	MORRISON C. ENGLAND, JR UNITED STATES DISTRICT JUDGE
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