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11 **UNITED STATES DISTRICT COURT**
 12 **EASTERN DISTRICT OF CALIFORNIA**
 13 **SACRAMENTO DIVISION**
 14

15 SPECIAL SITUATIONS FUND III QP, L.P.,
 SPECIAL SITUATIONS CAYMAN FUND,
 16 L.P., and DAVID M. FINEMAN, Individually
 and On Behalf of All Others Similarly Situated,
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Plaintiffs,
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v.
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MARRONE BIO INNOVATIONS, INC.,
 20 PAMELA G. MARRONE, JAMES B. BOYD,
 DONALD J. GLIDEWELL, HECTOR ABSI,
 21 ELIN MILLER, RANJEET BHATIA,
 PAMELA CONTAG, TIM FOGARTY,
 22 LAWRENCE HOUGH, JOSEPH HUDSON,
 LES LYMAN, RICHARD ROMINGER,
 23 SHAUGN STANLEY, SEAN
 SCHICKEDANZ, and ERNST & YOUNG
 24 LLP,

Defendants.
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Case No. 2:14-cv-02571-MCE-KJN

CONSOLIDATED CLASS ACTION

**STIPULATION AND ORDER SETTING
 BRIEFING SCHEDULE FOR
 DEFENDANT ERNST & YOUNG LLP'S
 MOTION FOR RECONSIDERATION,
 STAYING DISCOVERY DURING
 PENDENCY OF MOTION**

Judge: Hon. Morrison C. England, Jr.
 TAC Filed: June 1, 2016
 Trial Date: None set

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
4 "DefendantDated: November 14, 2017

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6 " and, together with Plaintiffs, the "Parties"), by and through undersigned counsel, hereby
7 stipulate and agree as follows:

8 WHEREAS, Defendant filed a Motion to Reconsider the Denial of its Motion to Dismiss
9 or in the Alternative Certify an Interlocutory Appeal (the "Reconsideration Motion") on
10 November 2, 2017 (ECF No. 113);

11 WHEREAS, the hearing on the Reconsideration Motion, previously scheduled for
12 November 30, 2017, has by Order of the Court been vacated and submitted without appearance
13 and argument subject to further order of the Court (ECF No. 114);

14 WHEREAS, upon Plaintiffs' request, the Parties met and conferred to set a mutually
15 agreeable schedule to complete the briefing of the Reconsideration Motion;

16 WHEREAS, the Parties agree to the following briefing schedule:

- 17 • Plaintiffs will file their opposition to the Reconsideration Motion on or before
18 December 18, 2017;
- 19 • Defendant will file its reply on or before January 18, 2018;

20 WHEREAS, if the Court determines that a hearing is necessary on the Reconsideration
21 Motion, the Parties agree to set the hearing for January 25, 2018, or on a day thereafter that is
22 convenient for the Court;

23 WHEREAS, all discovery in this action, including but not limited to the filing of a Rule
24 26(f) discovery plan and/or responding to the discovery-related topics in the Order Requiring
25 Joint Status Report, has been stayed by the parties' so ordered Stipulation (*see* ECF No. 112),
26 which stay concluded on October 30, 2017;

27 WHEREAS, the parties have met and conferred concerning discovery, and agree that the
28 interests of all parties and judicial efficiency will be served by continuing a stay of discovery

1 while the Reconsideration Motion is pending, including because the Reconsideration Motion
2 seeks reconsideration of Defendant's Motion to Dismiss, which implicated the automatic stay of
3 discovery under the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-
4 4(b)(3)(B), and to accommodate counsels' previously scheduled trial obligations.

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

7 1. Plaintiffs will file their opposition to the Reconsideration Motion on or before
8 December 18, 2017;

9 2. Defendant's reply is due on or before January 18, 2018;

10 3. Should the Court determine that a hearing is necessary on the Motion, the hearing
11 will be set for January 25, 2018, or a day thereafter that is convenient for the Court.

12 4. For the benefit of the Parties and in the interests of judicial efficiency, and in light
13 of 15 U.S.C. § 78u-4(b)(3)(B), all discovery in this action, including but not limited to the filing
14 of a Rule 26(f) discovery plan and/or responding to the discovery-related topics in the Order
15 Requiring Joint Status Report, is stayed while the Reconsideration Motion is pending.

16 5. If the Court denies the Reconsideration Motion, the parties shall meet and confer
17 concerning discovery within ten (10) days after the Court's order, and within twenty (20) days
18 after that submit a Rule 26(f) discovery plan to the Court and/or respond to the discovery-related
19 topics in the Order Requiring Joint Status Report.

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1 6. In the event the Court declines to approve this stipulation, the Parties shall have
2 thirty (30) days from said denial to submit a Rule 26(f) discovery plan to the Court and/or
3 respond to the discovery-related topics in the Order Requiring Joint Status Report.

4 Dated: November 9, 2017

LOWENSTEIN SANDLER LLP

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6 By: /s/ Steven M. Hecht
7 Steven M. Hecht
8 (as authorized on November 8, 2017)
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Fund III QP, L.P. and Special Situations
Cayman Fund, L.P., and additional named
Plaintiff David M. Fineman*

14 Dated: November 9, 2017

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Counsel for Defendant Ernst & Young LLP

ORDER

24 IT IS SO ORDERED.

25 DATED: November 14, 2017

26 
27 MORRISON C. ENGLAND, JR.
28 UNITED STATES DISTRICT JUDGE