

JORDAN ETH (CA SBN 121617)

JEth@mofo.com

JUDSON E. LOBDELL (CA SBN 146041)

JLobdell@mofo.com

MORRISON & FOERSTER LLP

425 Market Street

San Francisco, California 94105-2482

Telephone: 415.268.7000

Attorneys for Defendants

MARRONE BIO INNOVATIONS, INC., PAMELA G.

MARRONE, JAMES B. BOYD, DONALD J. GLIDEWELL,

ELIN MILLER, RANJEET BHATIA, PAMELA CONTAG, TIM

FOGARTY, LAWRENCE HOUGH, JOSEPH HUDSON, LES

LYMAN, RICHARD ROMINGER, SHAUGN STANLEY,

SEAN SCHICKEDANZ

*(Additional Counsel on Signature Page)*

## UNITED STATES DISTRICT COURT

### EASTERN DISTRICT OF CALIFORNIA

SPECIAL SITUATIONS FUND III QP, L.P.,  
AND SPECIAL SITUATIONS CAYMAN  
FUND, L.P, Individually and On Behalf of  
All Others Similarly Situated,

Plaintiffs,

vs.

MARRONE BIO INNOVATIONS, INC.,  
PAMELA G. MARRONE, JAMES B.  
BOYD, DONALD J. GLIDEWELL,  
HECTOR ABSI, ELIN MILLER, RANJEET  
BHATIA, PAMELA CONTAG, TIM  
FOGARTY, LAWRENCE HOUGH,  
JOSEPH HUDSON, LES LYMAN,  
RICHARD ROMINGER and SHAUGN  
STANLEY,

Defendants.

Master File No.: 2:14-cv-2571-MCE-KJN

Chief Judge Morrison C. England, Jr.

CONSOLIDATED CLASS ACTION

**STIPULATION AND ORDER (1)  
SETTING TIME FOR FILING OF  
CONSOLIDATED CLASS ACTION  
COMPLAINT AND (2)  
ESTABLISHING BRIEFING  
SCHEDULE FOR RESPONSIVE  
MOTION(S)**

*(caption continued on the following page)*

STIPULATION AND ORDER (1) SETTING TIME FOR FILING OF CONSOLIDATED CLASS ACTION COMPLAINT AND (2)  
ESTABLISHING BRIEFING SCHEDULE FOR RESPONSIVE MOTION(S)  
MASTER FILE NO. : 2:14-cv-2571-MCE-KJN

sf-3538812

JOANN N. MARTINELLI, Individually and  
On Behalf of All Others Similarly Situated,

Plaintiff,

vs.

MARRONE BIO INNOVATIONS, INC.,  
PAMELA G. MARRONE, DONALD J.  
GLIDEWELL, and JAMES B. BOYD,

Defendants.

PAUL SAUSMAN, Individually and On  
Behalf of All Others Similarly Situated,

Plaintiff,

vs.

MARRONE BIO INNOVATIONS, INC.,  
PAMELA G. MARRONE, DONALD J.  
GLIDEWELL, and JAMES B. BOYD,

Defendants.

SUSCHIA CHEN, Individually and On  
Behalf of All Others Similarly Situated,

Plaintiff,

vs.

MARRONE BIO INNOVATIONS, INC.,  
PAMELA G. MARRONE, DONALD J.  
GLIDEWELL, and JAMES B. BOYD,

Defendants.

*(caption continued on the following page)*

STIPULATION AND ORDER (1) SETTING TIME FOR FILING OF CONSOLIDATED CLASS ACTION COMPLAINT AND (2)  
ESTABLISHING BRIEFING SCHEDULE FOR RESPONSIVE MOTION(S)  
MASTER FILE NO. : 2:14-CV-2571-MCE-KJN

sf-3538812

KENT OLDHAM, Individually and On  
Behalf of All Others Similarly Situated,

Plaintiff,

vs.

MARRONE BIO INNOVATIONS, INC.,  
JAMES B. BOYD, DONALD J.  
GLIDEWELL, PAMELA G. MARRONE,  
RANJEET BHATIA, TIM FOGARTY,  
LAWRENCE HOUGH, JOSEPH HUDSON,  
RICHARD ROMINGER, SEAN  
SCHICKEDANZ, SHAUGN STANLEY,  
PIPER JAFFRAY & CO., STIFEL,  
NICOLAUS & COMPANY,  
INCORPORATED, ROTH CAPITAL  
PARTNERS, LLC, and JEFFERIES LLC,

Defendants.

STIPULATION AND ORDER (1) SETTING TIME FOR FILING OF CONSOLIDATED CLASS ACTION COMPLAINT AND (2)  
ESTABLISHING BRIEFING SCHEDULE FOR RESPONSIVE MOTION(S)  
MASTER FILE NO. : 2:14-cv-2571-MCE-KJN

sf-3538812

Lead Plaintiffs Special Situations Fund III QP, L.P. and Special Situations Cayman Fund, L.P. (“Lead Plaintiffs”) and Defendants Marrone Bio Innovations, Inc. (“MBII” or “the Company”), Pamela G. Marrone, James B. Boyd, Donald J. Glidewell, Hector Absi, Elin Miller, Ranjeet Bhatia, Pamela Contag, Tim Fogarty, Lawrence Hough, Joseph Hudson, Les Lyman, Richard Rominger, Shaugn Stanley, and Sean Schickedanz (collectively, “Defendants”), by and through their respective counsel hereby recite and stipulate, subject to the approval of the Court, the following as concerns (1) the filing of a consolidated class action complaint (“Consolidated Complaint”), and (2) the briefing schedule for any responsive motions.

## RECITALS

WHEREAS Lead Plaintiffs filed a class action complaint on November 3, 2014 [Docket No. 1], alleging that Defendants engaged in conduct that violates the federal securities laws, specifically Sections 11 and 15 of the Securities Act of 1933 and Sections 10(b) and 20(a) of the Securities Exchange Act of 1934;

WHEREAS the claims in this action are subject to the Private Securities Litigation Reform Act of 1995 (the “PSLRA”);

WHEREAS counsel for Defendants accepted service of the initial complaint on Defendants' behalf, and the parties entered into a stipulation continuing the date by which Defendants must answer or otherwise respond to the complaint until after the Court issued an order pursuant to the PSLRA appointing lead plaintiff(s) and lead counsel [Docket No. 13];

WHEREAS the parties further stipulated that counsel for Defendants would meet and confer with the Court-appointed lead counsel within twenty (20) days following the Court's order appointing lead plaintiff(s) and lead counsel, to determine (i) whether the lead plaintiff(s) will file a Consolidated Complaint, (ii) establish a common response date for all defendants, including a briefing schedule on anticipated motions to dismiss, and (iii) establish a date by which to provide the Court with a Joint Status Report;

WHEREAS by Order dated February 13, 2015 [Docket No. 18], this Court consolidated the actions denominated as *Martinelli v. Marrone Bio Innovations, Inc.*, No. 2:14-cv-2055-

1 MCE-KJN, *Sausman v. Marrone Bio Innovations, Inc.*, No. 2:14-cv-2072-MCE-KJN, *Chen v.*  
2 *Marrone Bio Innovations, Inc.*, 2:14-cv-2105-MCE-KJN, *Oldham v. Marrone Bio Innovations,*  
3 *Inc.*, 2:14-cv-2130-MCE-KJN, and *Special Situations Fund III QP, L.P. v. Marrone Bio*  
4 *Innovations, Inc.*, No. 2:14-cv-2571-MCE-KJN, designating No. 2:14-cv-2571 as the Master  
5 File and administratively closing all of the other consolidated cases;

6 WHEREAS by that same Order, the Court appointed Special Situations Fund III QP,  
7 L.P. and Special Situations Cayman Fund, L.P. as Lead Plaintiffs, and Lowenstein Sandler LLP  
8 as Lead Counsel;

9 WHEREAS MBII has previously announced that the independent Audit Committee  
10 investigation of certain revenue recognition issues is substantially completed, and that, in light  
11 of the Audit Committee's findings, MBII's management is evaluating the necessity, nature and  
12 scope of any restatements to any of MBII's financial statements previously filed with the  
13 Securities and Exchange Commission ("SEC") (the "Financial Statement Review");

14 WHEREAS Lead Plaintiffs intend to file a Consolidated Complaint, and Defendants  
15 have indicated that they intend to move to dismiss the Consolidated Complaint pursuant to Fed.  
16 R. Civ. P. 12 and any other applicable law;

17 WHEREAS pursuant to the PSLRA, 15 U.S.C. § 78u-4(b)(3)(B), all discovery in this  
18 consolidated class action is automatically stayed by operation of law;

19 WHEREAS by Order dated April 16, 2015 [Docket No. 27], this Court directed  
20 Plaintiffs to file and serve the Consolidated Complaint no later than thirty (30) days after MBII  
21 announces the results of the Financial Statement Review and, if MBII does not announce the  
22 results of the Financial Statement Review by May 13, 2015, file and serve the Consolidated  
23 Complaint no later than June 1, 2015;

24 WHEREAS on April 23, 2015, MBII announced that (i) its Audit Committee concluded,  
25 after consultation with management, that certain financial statements should no longer be relied  
26 upon, and (ii) although the Company expects to restate certain of its previously filed financial  
27 statements, the Company's evaluation process is ongoing and, accordingly, the Company cannot  
28

STIPULATION AND ORDER (1) SETTING TIME FOR FILING OF CONSOLIDATED CLASS ACTION COMPLAINT AND (2)  
ESTABLISHING BRIEFING SCHEDULE FOR RESPONSIVE MOTION(S)  
MASTER FILE NO. : 2:14-CV-2571-MCE-KJN

sf-3538812

1 at this time provide an estimate of the timing, extent, or effect of such restatement (the  
2 “Restatement(s)”);

3 WHEREAS the Restatement(s) may impact the allegations in the Consolidated  
4 Complaint;

5 WHEREAS although Lead Plaintiffs may properly file the Consolidated Complaint at  
6 any time, undersigned counsel agree that the interests of justice would be best served by an  
7 order directing Lead Plaintiffs to file the Consolidated Complaint after MBII announces the  
8 results of the Restatement(s), so as to avoid the expense and delay that would be incurred by  
9 further amending the Consolidated Complaint should the Restatement(s) be announced while  
10 Defendants’ anticipated motion(s) to dismiss are being briefed.

11  
12 **STIPULATION**

13 THEREFORE, IT IS HEREBY STIPULATED AND AGREED by Lead Plaintiffs and  
14 Defendants, through their respective counsel of record, as follows:

15 1. Lead Plaintiffs shall file and serve the Consolidated Complaint no later than sixty  
16 (60) days after MBII announces the Restatement(s).

17 2. Defendants shall file and serve any responsive pleading(s) or motion(s) to  
18 dismiss no later than sixty (60) days after the filing and service of the Consolidated Complaint.

19 3. If a motion to dismiss is filed, Lead Plaintiffs shall file and serve their opposition  
20 brief(s) no later than forty-five (45) days after Defendants file and serve their motion(s) to  
21 dismiss.

22 4. Defendants shall file and serve their reply(ies) in further support of the motion(s)  
23 to dismiss no later than twenty-one (21) days after Lead Plaintiffs file and serve their opposition  
24 brief(s).

25 5. In the event Defendants’ motion(s) to dismiss are denied in whole or in part,  
26 Lead Plaintiffs and Defendants shall meet and confer within forty-five (45) days of the Court’s  
27 disposition of Defendants’ motion(s) to dismiss to address the discovery-related topics set forth

1 in the Court's Order Requiring Joint Status Report and will thereafter submit to the Court a Rule  
2 26(f) discovery plan consistent with that Order.

3  
4  
5 DATED: May 27, 2015

**LOWENSTEIN SANDLER LLP**

6 By: /s/ Michael J. McGaughey  
7 (As authorized on May 27, 2015)  
8 Michael J. McGaughey  
9 Lowenstein Sandler LLP  
10 390 Lytton Avenue  
11 Palo Alto, CA 94301  
12 Telephone: 415-288-4545  
13 Fax: 415-288-4534  
14 mmcgaughey@lowenstein.com

15 Lawrence M. Rolnick (*pro hac vice*)  
16 Steven M. Hecht (*pro hac vice*)  
17 Thomas E. Redburn, Jr. (*pro hac vice*)  
18 Lowenstein Sandler LLP  
19 1251 Avenue of the Americas  
20 New York, NY 10020  
21 -and-  
22 65 Livingston Avenue  
23 Roseland, NJ 07068  
24 Telephone: 212-262-6700  
25 Fax: 973-597-2400  
26 lrolnick@lowenstein.com  
27 shecht@lowenstein.com  
28 tredburn@lowenstein.com

*Counsel for Lead Plaintiffs Special  
Situations Fund III QP, L.P. and Special  
Situations Cayman Fund, L.P.*

**MORRISON & FOERSTER LLP**

25 By: /s/Judson E. Lobdell  
26 Judson E. Lobdell  
27 JLobdell@mofo.com  
28 Jordan Eth  
JEth@mofo.com

STIPULATION AND ORDER (1) SETTING TIME FOR FILING OF CONSOLIDATED CLASS ACTION COMPLAINT AND (2)  
ESTABLISHING BRIEFING SCHEDULE FOR RESPONSIVE MOTION(S)  
MASTER FILE NO. : 2:14-CV-2571-MCE-KJN

sf-3538812

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Morrison & Foerster LLP  
425 Market Street  
San Francisco, CA 94105  
Telephone: 415-268-7000  
Facsimile: 415-268-7522

*Counsel for Defendants Marrone Bio  
Innovations, Inc., Pamela G. Marrone,  
James B. Boyd, Donald J. Glidewell, Elin  
Miller, Ranjeet Bhatia, Pamela Contag,  
Tim Fogarty, Lawrence Hough, Joseph  
Hudson, Les Lyman, Richard Rominger,  
Shaughn Stanley, and Sean Schickedanz*

**BROWNSTEIN HYATT FARBER  
SCHRECK LLP**

By: /s/ Jonathan C. Sandler  
(As authorized on May 27, 2015)  
Jonathan C. Sandler  
2049 Century Park East, Suite 3550  
Los Angeles, CA 90067  
Telephone: 310-500-4600  
Facsimile: 310-500-4602

*Counsel for Defendant Hector Absi*



**ORDER**

Pursuant to the parties' stipulation, it is hereby ordered that:

1. Lead Plaintiffs shall file and serve the Consolidated Complaint no later than sixty (60) days after MBII announces the Restatement(s).

2. Defendants shall file and serve any responsive pleading(s) or motion(s) to dismiss no later than sixty (60) days after the filing and service of the Consolidated Complaint.


3. If a motion to dismiss is filed, Lead Plaintiffs shall file and serve their opposition brief(s) no later than forty-five (45) days after Defendants file and serve their motion(s) to dismiss.

4. Defendants shall file and serve their reply(ies) in further support of the motion(s) to dismiss no later than twenty-one (21) days after Lead Plaintiffs file and serve their opposition brief(s).

5. In the event Defendants' motion(s) to dismiss are denied in whole or in part, Lead Plaintiffs and Defendants shall meet and confer within forty-five (45) days of the Court's disposition of Defendants' motion(s) to dismiss to address the discovery-related topics set forth in the Court's Order Requiring Joint Status Report and will thereafter submit to the Court a Rule 26(f) discovery plan consistent with that Order.

IT IS SO ORDERED.

Dated: June 3, 2015

  
MORRISON C. ENGLAND, JR., CHIEF JUDGE  
UNITED STATES DISTRICT COURT