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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

TRICIA M. BARTELT, et al.,  
Plaintiffs,  
v.  
AFFYMAX, INC., et al.,  
Defendants.

Case No. [13-cv-01025-WHO](#)

**ORDER REQUIRING ADDITIONAL  
BRIEFING IN RESPONSE TO  
OBJECTIONS TO APPROVAL OF  
FINAL SETTLEMENT**

Re: Dkt. No. 85

The parties have filed a motion for final approval of class action settlement. Dkt. No. 86. The final fairness hearing will be conducted on December 10, 2014, **starting at 1:45 p.m.**

On December 1, 2014, the Court received and filed a 35-page statement of objections to the proposed settlement by Michelle Enright, who purports to be a class member. Dkt. No. 85. On December 3, 2014, Lead Counsel for plaintiffs filed a declaration which states that Ms. Enright lacks standing to object to the settlement because she has not produced confirmation that she purchased shares during the Class Period. Lead Counsel also asserts that Ms. Enright's objections lack merit and denies several of her allegations. Dkt. No. 87 ¶¶ 63-72. However, it does not appear that Lead Counsel addressed all of the points raised by Ms. Enright. For example, Lead Counsel does not appear to respond to the objection that the proposed class inappropriately includes long purchasers, short sellers and options traders. Nor does Lead Counsel respond to the assertion that the release in the proposed settlement is too broad.

I express no opinion regarding the merits of these objections; I note merely that they have been raised. Additional briefing from Lead Counsel would be helpful to assess these objections before the fairness hearing. **Accordingly, by 5:00 p.m. on Monday, December 8, 2014, Lead Counsel shall file a statement, not to exceed six pages, addressing these issues. Lead Counsel**

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may also address any other issues raised by Ms. Enright to which Lead Counsel finds a response is warranted. Affymax need not file a response, it may join Lead Counsel's statement or, if it wishes, file its own six-page statement by December 8, 2014.

**IT IS SO ORDERED.**

Dated: December 3, 2014

  
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WILLIAM H. ORRICK  
United States District Judge