

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BIOTECHNOLOGY VALUE FUND, L.P.,
BIOTECHNOLOGY VALUE FUND II,
L.P., INVESTMENT 10, L.L.C., BVF
INVESTMENTS, L.L.C.; BVF INC., and
BVF X, LLC,

Plaintiffs,

v.

CELERA CORPORATION, KATHY
ORDOÑEZ, RICHARD H. AYERS,
WILLIAM G. GREEN, PETER BARTON
HUTT, GAIL M. NAUGHTON, WAYNE
I. ROE, and BENNETT M. SHAPIRO,

Defendants.

No. C 13-03248 WHA

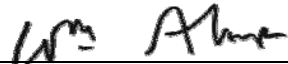
**ORDER RE HOLDING
FROM NOVEMBER 6
DISCOVERY HEARING**

To the extent stated at today’s discovery hearing, the e-mail in dispute — concerning a message from Kathy Ordoñez to Scott Milsten — is tentatively held to be a communication protected by the attorney-client privilege, at least for the time being.

This is subject to the following caveat. At trial, if the defense opens the door so as to leave the impression that a lawyer somehow blessed the reported mistakes with the drug royalty assets, it may be unfair to keep the disputed e-mail from plaintiffs. A final decision on such an event will necessarily depend on what happens at trial.

IT IS SO ORDERED.

Dated: November 6, 2014.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE