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 10 IN THE UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA

12 ROBERT BURLINGAME, derivatively on behalf of
 13 PACIFIC BIOSCIENCES OF CALIFORNIA, INC.,

Case No. CV 4:11-06703-CW

14 Plaintiff,

15 v.

**STIPULATION AND ORDER
 REGARDING BRIEFING
 SCHEDULE FOR AMENDED
 COMPLAINT AND LEADERSHIP
 STRUCTURE**

16 HUGH C. MARTIN, BROOK BYERS, WILLIAM
 17 W. ERICSON, MICHAEL HUNKPILLER.,
 RANDALL S. LIVINGSTON, SUSAN SIEGEL, and
 18 DAVID SINGER,

19 Defendants,

20 -and-

21 PACWIC BIOSCIENCES OF CALIFORNIA, INC.,

22 Nominal Defendant.
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I WHEREAS, plaintiff Robert Burlingame ("Plaintiff") filed his Verified Shareholder
2 Derivative Complaint on December 29, 2011 (the "Action");

3 WHEREAS, Plaintiff intends to file an amended complaint;

4 WHEREAS, the parties agree that filing an amended complaint and briefmg on any
5 corresponding motion to dismiss before the motion to dismiss is ruled upon in the related securities
6 class action *Primo v. Pacific BioSciences of California, Inc.*, Case No. CV-11-6599 (N.D. Cal.) (the
7 "Primo Action") would create significant redm1dancies and inefficient use of resources of the
8 parties and the Court;

9 WHEREAS, the parties met and conferred;

10 WHEREAS, the parties agree that the interests of judicial economy and the efficient
11 management of this litigation are best served by (i) awaiting the ruling on the motion to dismiss in
12 the related Primo Action before Plaintiff files an amended complaint and Defendants have an
13 opportunity to respond; and (ii) appointing Levi & Korsinsky, LLP, as Lead Com1sel, for purposes
14 of coordinating and directing the litigation of this matter and any related cases as may be filed in
15 this jurisdiction;

16 NOW, THEREFORE, the parties hereby agree and stipulate as follows:

17 1. Plaintiffs amended complaint in this Action shall be filed after the final resolution of
18 the anticipated motion to dismiss the Primo Action. Therefore, Plaintiff will file an amended
19 complaint in this Action sixty (60) days after any of the following events:

20 (i) the Court enters an order denying in its entirety the anticipated motion
21 to dismiss the Primo Action (and the time to file an appeal has expired without the filing of any
22 such appeal); or

23 (ii) the Court enters an order granting in its entirety the anticipated
24 motion to dismiss the Primo Action with prejudice (and the time to file an appeal has expired
25 without the filing of any such appeal); or

26 (iii) the Court enters an order granting in part and denying in part the
27 anticipated motion to dismiss the Primo Action, and the time. has expired for the plaintiff in the
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1 Primo Action to amend, (and the time for the filing of an appeal has expired without the filing of
2 any such appeal).

3 For clarification, if the Court in the Primo Action grants the motion to dismiss with leave to amend,
4 Plaintiff will not file his amended complaint in this Action until the motion to dismiss the amended
5 complaint in the Primo Action is finally resolved.

6 2. Until such time as an amended complaint is filed in this Action, defendants are not
7 required to answer or otherwise respond to the complaint in the Action.

8 3. Upon filing of an amended complaint, defendants shall have forty-five (45) days to
9 answer or otherwise respond to the amended complaint. In the event that defendants move to
10 dismiss the amended complaint, any opposition to such motion shall be filed within forty-five (45)
11 days of the filing of that motion. Any reply shall be filed within twenty-one (21) days of the filing
12 of Plaintiffs opposition.

13 4. The parties agree that initial disclosures under Rule 26(a) will be deferred until 30
14 days after the filing of an Amended Complaint in this Action.

15 5. The parties also agree that no discovery will be commenced until after the filing of
16 an Amended Complaint in this Action.

17 6. Every pleading filed in the Action, or in any separate action included herein, must
18 bear the following caption:

19 IN THE UNITED STATES DISTRICT COURT
20 NORTHERN DISTRICT OF CALIFORNIA
21 SAN JOSE DIVISION

22 In re PACIFIC BIOSCIENCES OF CALIFORNIA, INC. DERIVATIVE LITIGATION | Lead Case No. CV 5:11-06703-PSG
23 This Document Relates To: |
24 ALL ACTIONS.

25 7. The files of the Action will be maintained in one file under Lead Case No. CV 5:11-
26 06703-CW.

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2 8. Lead Counsel for the conduct of the Lead Case and subsequently filed related actions
3 is:

4 LEVI & KORSINSKY LLP
5 Eric Andersen
6 30 Broad Street, 15th Floor
7 New York, NY 10004
8 Telephone: (212) 363-7500
9 Facsimile: (212) 363-7171

10 9. Lead Counsel shall have sole authority to speak for Plaintiff in matters regarding pre-
11 trial procedure, trial, and settlement negotiations so as to facilitate the orderly and efficient
12 prosecution of this litigation and to avoid duplicative or unproductive effort.

13 10. Lead Counsel shall be responsible for coordinating all activities and appearances on
14 behalf of Plaintiff. No motion, request for discovery, or other pre-trial or trial proceedings will be
15 initiated or filed by any plaintiff except through or at the direction of Plaintiffs Lead Counsel.

16 11. Liaison Counsel for Plaintiff for the conduct of the Action is:

17 BRAMSON, PLUTZIK, MAHLER & BIRKHAUSER, LLP
18 Alan R. Plutzik
19 Michael S. Strimling
20 2125 Oak Grove Road, Suite 120
21 Walnut Creek, CA 94598
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24 12. Plaintiffs Liaison Counsel will be available and responsible for communications to
25 and from this Court, including distributing orders and other directions from the Court to counsel.
26 Plaintiffs Liaison Counsel will be responsible for creating and maintaining a master service list of
27 all parties and their respective counsel.

28 13. Defendants' counsel may rely upon all agreements made with Plaintiffs Lead
Counsel, or other duly authorized representative of Plaintiffs Lead Counsel, and such agreements
will be binding on Plaintiff.

1 14. This Order shall apply to each case, arising out of the same or substantially the same
2 transactions or events as these cases, which is subsequently filed in, remanded to, or transferred to
3 this Court.

4 15. When a case which properly belongs as part of the *In re Pacific Biosciences of*
5 *California, Inc., Derivative Litigation*, Lead Case No. CV 11-06703-CW, is hereafter filed in the
6 Court or transferred here from another court, this Court requests the assistance of counsel in calling
7 to the attention of the clerk of the Court the filing or transfer of any case which might properly be
8 consolidated as part of the *In re Pacific Biosciences of California, Inc. Derivative Litigation*, Lead
9 Case No. CV 11-06703-CW, and counsel are to assist in assuring that counsel in subsequent actions
10 receive notice of this Order.

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DATED: March 1, 2012

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WILSON SONSIN!GOODRICH &
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Palo Alto, CA 94304-1050

*Attorneys for Defendants Pacific Biosciences
of California, Inc., Hugh C. Martin, Brooks
Byers, William C. Ericson, Michael
Hunkapiller, Randal S. Livingston, Susan
Siegal and David Singer*

IT IS SO ORDERED, except that the case will be heard in Oakland, and the
correct case number and caption are as follows: C 4:11-6703 CW,
Robert Burlingame, a derivatively on behalf of PACIFIC BIOSCIENCE OF
CALIFORNIA, INC., vs. HUGH C. MARTIN; BRROK BYERS; WILLIAM W. ERICSON;
MICHAEL HUNKPILLER; RANDALL S. LIVINGSTON; SUSAN SIEGEL; and DAVID SINGER



Claudia Wilken
United States District Judge