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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Kevin Embry,

NO. C 09-01808 JW

Plaintiff,

v.

**AMENDED ORDER REQUIRING
MODIFICATION OF PROPOSED FINAL
APPROVAL ORDER; REQUIRING
SUBMISSION OF ADDITIONAL
INFORMATION**

ACER America Corp.,

Defendant.

Presently before the Court is the parties' Motion for Final Approval of Class Action Settlement. (See Docket Item No. 198.) This Motion is scheduled for a hearing on February 13, 2012. Upon review of the parties' Proposed Order,¹ the Court finds that it contains a number of issues which require modification and resolution before the final fairness hearing. Accordingly, on or before **February 3, 2012**, the parties shall submit a Revised Proposed Order incorporating the following changes:

(1) While the Court will consider all of the objections to the settlement, the Court does not find good cause to allow the depositions of Objectors at this time. Further, the Court finds that modification of its prior order denying Objectors' Motion to Intervene is unnecessary.²

¹ (Proposed Final Approval Order and Judgment, hereafter, "Proposed Order," Docket Item No. 205.)

² (See Docket Item No. 201.) The Court recognizes that there is some question as to whether the Objectors at issue properly identify themselves as members of the class. The Court finds, however, that in light of its denial of these Objectors' Motion to Intervene, this issue does not warrant further inquiry or modification of its prior Order.


1 Accordingly, the Court ORDERS that paragraph seven (7) of the Proposed Order be stricken in its
2 entirety.

3 (2) The Court does not find good cause to allow the parties to modify the settlement
4 schedule without the approval of the Court. Accordingly, the Court ORDERS that paragraph 19 of
5 the Proposed Order be stricken. The parties may replace the existing language with a provision
6 allowing the parties to submit a joint stipulation subject to the approval of the Court to the extent
7 any modification is needed.

8 In addition to the above modifications to the Proposed Order, the Court finds that further
9 information will be useful to the Court in evaluating the fairness of the settlement as well as Class
10 Counsel's request for fees. On or before **February 3, 2012**, the parties shall submit the following
11 information to the Court:

- 12 (1) The number of claims received to date that do not contain the required
13 documentation or are otherwise considered invalid by the parties;
14 (2) The total value of the claims received to date.

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17 Dated: January 31, 2012



JAMES WARE
United States District Chief Judge

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1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

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7 **Dated: January 31, 2012**

Richard W. Wieking, Clerk

8
9 **By: /s/ JW Chambers**
10 **Susan Imbriani**
11 **Courtroom Deputy**

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