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4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA
6 SAN JOSE DIVISION
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8 In re CELERA CORP. SEC. LITIG.

Case No. [5:10-CV-02604-EJD](#)

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10 **ORDER REQUESTING ADDITIONAL**
11 **INFORMATION RE: MOTION FOR**
12 **PRELIMINARY APPROVAL OF CLASS**
13 **ACTION SETTLEMENT**

14 Pending in this court is Plaintiff's Motion for Preliminary Approval of Class Action
15 Settlement. See Dkt. No. 167. Having reviewed the parties' submissions and heard oral
16 argument, the court finds that there is insufficient information to determine whether the parties'
17 proposed settlement agreement is reasonable.

18 The court hereby requests information (not to exceed 15 pages) and supporting
19 documentation addressing the following:

- 20 1. The estimated class size.
- 21 2. An itemized listing of how the \$24,750,000 settlement fund will be spent, including a list
22 of the expenses to be paid by the fund, an estimated cost of each expense, and an estimated
23 cost of the fund reserved for authorized claimants.
- 24 3. The estimated amount per share that claimants will receive, and the method from which
25 this figure was derived.
- 26 4. For the first time in oral argument, the parties stated that funds would go towards a *cy pres*
27 distribution. The parties must: (i) stipulate that a *cy pres* distribution will be made as part

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APPROVAL OF CLASS ACTION SETTLEMENT

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Northern District of California

1 of the proposed class action settlement; (ii) identify the proposed *cy pres* recipient(s) and
2 explain the reasons for selecting the recipient(s); (iii) provide the estimated amount of
3 funds that will be distributed and whether it will be derived from the \$24.75 million
4 settlement fund; and (iv) discuss the justification for a *cy pres* award based on Ninth
5 Circuit legal standards.

6 5. A detailed notice plan that includes discussion on the following: (i) the method(s) in which
7 notice will be disseminated (e.g., postage mail, e-mail, publication) and why the method(s)
8 was selected; (ii) the method(s) for obtaining class members' most updated contact
9 information; (iii) the estimated percentage of the class that will be reached; (iv) a plan to
10 reach class members whose notices were returned as undeliverable or cannot be reached;
11 and (v) the availability of key documents at a neutral website.

12 Furthermore, the parties are to provide a "mock-up" of the Notice, Summary Notice, and Claim
13 Form in the shape, size, form, and layout in which they will be disseminated. The court refers the
14 parties to view the notices and claim form provided in Salhuana v. Diamond Foods, Inc. (Case No.
15 11-CV-05386-WHA, ECF Docket No. 284, Exhs. A-1, A-2, A-3) and Vincent v. Reser (Case No.
16 11-CV-03572-CRB, ECF Docket No. 55, Exh. Class Notice) to serve as guidance.

17 The requested information shall be filed on or before **December 19, 2014**.

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19 **IT IS SO ORDERED.**

20 Dated: November 20, 2014

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23 EDWARD J. DAVILA
United States District Judge

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