

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

SPECIAL SITUATIONS FUND III QP, L.P., SPECIAL SITUATIONS CAYMAN FUND, L.P, and DAVID M. FINEMAN, Individually and On Behalf of All Others Similarly Situated,

Plaintiffs,

vs.

MARRONE BIO INNOVATIONS, INC., PAMELA G. MARRONE, JAMES B. BOYD, DONALD J. GLIDEWELL, HECTOR ABSI, ELIN MILLER, RANJEET BHATIA, PAMELA CONTAG, TIM FOGARTY, LAWRENCE HOUGH, JOSEPH HUDSON, LES LYMAN, RICHARD ROMINGER, SHAUGN STANLEY, SEAN SCHICKEDANZ, and ERNST & YOUNG LLP,

Defendants.

Master No.: 2:14-cv-2571-MCE-KJN

Hon. Morrison C. England, Jr.

CONSOLIDATED CLASS ACTION

**NOTICE OF (I) PENDENCY AND CERTIFICATION OF SETTLEMENT CLASS; (II) PROPOSED SETTLEMENT; (III) SETTLEMENT HEARING; AND (IV) MOTION FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES**

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NOTICE OF PENDENCY AND PROPOSED SETTLEMENT  
MASTER FILE No. 2:14-cv-2571-MCE-KJN

TO: All persons or entities who or which purchased or otherwise acquired MBI common stock directly in or traceable to the Company's secondary offering pursuant to MBI's Form S-1 Registration Statement, dated May 16, 2014, and its Prospectus dated June 5, 2014 (the "Secondary Offering"), and were damaged thereby (the "Secondary Claimants").<sup>1</sup>

**A Federal Court authorized this Notice. This is not a solicitation from a lawyer.**

**NOTICE OF PENDENCY OF CLASS ACTION:** Please be advised that your rights may be affected by the above-captioned securities class action (the "Action") pending in the United States District Court for the Eastern District of California (the "Court").

**NOTICE OF SETTLEMENT:** Please also be advised that the Court-appointed Lead Plaintiffs, Special Situations Fund III QP, L.P. and Special Situations Cayman Fund, L.P. ("Lead Plaintiffs" or "The Funds"), on behalf of themselves and the other members of the EY Settlement Class (as defined in ¶ 36 below), have reached a proposed settlement of the Action with Defendant Ernst & Young LLP ("EY" or the "Settling Defendant," and together with Lead Plaintiffs, the "Settling Parties") for \$775,000 in cash (the "EY Settlement").

The EY Settlement, if approved, will resolve all claims in the above-captioned securities class action (the "Action") pending in the United States District Court for the Eastern District of California (the "Court") against EY. The claims asserted against EY are the only remaining claims in this Action and, therefore, if the Settlement is approved by the Court, the Action will be completely resolved subject to any appeals.

**PLEASE READ THIS NOTICE CAREFULLY. This Notice explains important rights you may have, including the possible receipt of cash from the Settlement. If you are a member of the EY Settlement Class, your rights will be affected whether or not you act.**

**If you have any questions about this Notice, the proposed Settlement, or your eligibility to participate in the Settlement, please DO NOT contact EY, MBI, their counsel, or Lead Plaintiffs. All questions should be directed to the Claims Administrator or Lead Counsel (see ¶ 67 below).**

1. **Description of the Action and the Settlement Class:** This Notice relates to a proposed settlement of claims in a pending securities class action brought by investors alleging, among other things, that Defendants made false and misleading statements regarding MBI in connection with MBI's Secondary Offering of common stock, in violation of the federal securities laws. A more detailed description of the Action is set forth in ¶¶ 11–35 below. The proposed EY Settlement, if approved by the Court, will settle claims of the EY Settlement Class, as defined in ¶ 36 below. The current proposed EY Settlement is in addition to another partial settlement—the "MBI Settlement"—previously approved by the Court, resulting in an aggregate recovery of \$12 million, \$3,869,616 of which was allocated and distributed to members of the EY Settlement Class. If approved, the proposed EY Settlement will constitute an additional and supplemental distribution of settlement funds to the EY Settlement Class.

2. **Statement of the EY Settlement Class's Recovery:** Subject to Court approval, Lead Plaintiffs, on behalf of themselves and the other members of the Settlement Class, have agreed to settle with the Settling Defendants in exchange for a settlement payment of \$775,000 in cash (the "Settlement Amount"), which has been deposited into an escrow account controlled by Lead Counsel. The Net Settlement Fund (i.e., the Settlement Amount plus any and all interest earned thereon [the "Settlement Fund"] less [a] any Taxes, [b] any Notice and Administration Costs, [c] any Litigation Expenses awarded by the Court, and [d] any attorneys' fees awarded by the Court) will be distributed to EY Settlement Class Members.

3. **Estimate of Average Amount of Recovery Per Share:** Based on Lead Plaintiffs' damages expert's estimate of the number of shares of MBI common stock directly in or traceable to the Secondary Offering that may have been affected by the conduct at issue in the Action, and assuming that all EY Settlement Class Members elect to participate in the Settlement, the estimated average recovery (before the deduction of any Court-approved fees, expenses, and costs as described herein) is \$0.21 per affected share of MBI common stock. EY Settlement Class Members should note, however, that the foregoing average recovery per share is only an estimate. EY Settlement Class Members may recover more or less than this estimated amount depending on, among other factors, when and at what prices they purchased or sold their shares and the total number of shares which participate in the EY Settlement.

<sup>1</sup> All capitalized terms used in this Notice that are not otherwise defined herein shall have the meanings ascribed to them in the Stipulation and Agreement of Settlement, dated January 14, 2019 (the "Stipulation"), which is available at [www.MBISecuritiesLitigationSettlement.com](http://www.MBISecuritiesLitigationSettlement.com).

4. **Statement of Potential Outcome of Case and Potential Damages:** The Settling Parties do not agree on whether EY has any liability to anyone concerning the matters alleged in the Action or the average amount of damages per share that would be recoverable if Plaintiffs were to prevail in the Action. Among other things, EY does not agree that it violated the federal securities laws or any laws in connection with the matters alleged in the Action, including without limitation Lead Plaintiffs assertions concerning allegedly corrective disclosures and loss causation. EY also does not agree that damages were suffered (at all, or in the amount contended by Lead Plaintiffs) by any members of the EY Settlement Class as a result of its alleged conduct.

5. **Attorneys' Fees and Expenses Sought:** Court-appointed Lead Counsel, Lowenstein Sandler LLP, have been prosecuting this Action on a wholly contingent basis since its inception in 2014 and have advanced the funds to pay expenses necessarily incurred to prosecute the Action. Lead Counsel will apply to the Court for an award of attorneys' fees in an amount not to exceed 33% of the Settlement Fund. In addition, Lead Counsel will apply for reimbursement of Litigation Expenses paid or incurred in connection with the institution, prosecution, and resolution of the Action, in an amount not to exceed \$120,000, which may include an application for reimbursement of the reasonable costs and expenses incurred by Lead Plaintiffs directly related to its representation of the Settlement Class. Any fees and expenses awarded by the Court will be paid from the Settlement Fund. EY Settlement Class Members are not personally liable for any such fees or expenses. If the Court approves Lead Counsel's fee and expense application, the estimated average cost per affected share of MBI common stock will be approximately \$0.07.

6. **Identification of Lead Counsels' Representatives:** Lead Plaintiffs and the Settlement Class are represented by Lawrence M. Rolnick, Esq., Lowenstein Sandler LLP, 1251 Avenue of the Americas, New York, NY 10020, (212) 262-6700.

7. **Reasons for the Settlement:** Lead Plaintiffs' principal reason for entering into the Settlement is the substantial immediate cash benefit for the EY Settlement Class without the risk or delays inherent in further litigation. Moreover, the substantial cash benefit provided under the Settlement must be considered against the significant risk that a smaller recovery—or indeed no recovery at all—might be achieved after further contested motions, a trial of the Action, and the likely appeals that would follow a trial. This process could be expected to last several years. EY is also the beneficiary of a statutory judgment reduction that would significantly reduce any eventual judgment against it. EY, which denies all allegations of wrongdoing or liability whatsoever, is entering into the Settlement solely to eliminate the uncertainty, burden, and expense of further protracted litigation.

**YOUR LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENT:**

**SUBMIT A CLAIM FORM POSTMARKED NO LATER THAN MAY 6, 2019, IF YOU HAVE NOT ALREADY SUBMITTED ONE.**

If you previously submitted a Proof of Claim Form in connection with the MBI Settlement, you do not need to submit another Proof of Claim Form because all transaction information regarding your MBI common stock was required to be included in the earlier Proof of Claim Form, and that information will be used for purposes of calculating EY Settlement Class Members' proportional share of the Net Settlement Fund. If you have NOT previously submitted a Claim Form, **YOU MUST SUBMIT A CLAIM FORM**, postmarked no later than May 6, 2019, in order to be eligible to share in the net proceeds of the Settlement. This is the only way to be eligible to receive a payment from the Net Settlement Fund. You can obtain a copy of the Claim Form at [www.MBISecuritiesLitigationSettlement.com](http://www.MBISecuritiesLitigationSettlement.com) or by calling (855) 907-3227.

If you are an EY Settlement Class Member and you remain in the EY Settlement Class, you will be bound by the Settlement as approved by the Court and you will give up any Released Lead Plaintiffs' Claims (defined in ¶ 43 below) that you have against EY and EY's Releasees (defined in ¶ 44 below), so it is in your interest to submit a Claim Form if you have not already done so.

**EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS BY SUBMITTING A WRITTEN REQUEST FOR EXCLUSION SO THAT IT IS RECEIVED NO LATER THAN JUNE 27, 2019.**

If you exclude yourself from the EY Settlement Class, you will not be eligible to receive any payment from the EY Settlement Fund. This is the only option that allows you to ever to be part of any other lawsuit against any of EY or EY's Releasees concerning the Released Lead Plaintiffs' Claims.

**OBJECT TO THE SETTLEMENT BY SUBMITTING A WRITTEN OBJECTION SO THAT IT IS RECEIVED NO LATER THAN JUNE 27, 2019.**

If you do not like the proposed EY Settlement or the request for attorneys' fees and reimbursement of Litigation Expenses, you may write to the Court and explain why you do not like them. You cannot object to the EY Settlement or the fee and expense request unless you are an EY Settlement Class Member and do not exclude yourself from the EY Settlement Class.

**GO TO A HEARING ON JULY 11, 2019 AT 2:00 P.M., AND FILE A NOTICE OF INTENTION TO APPEAR SO THAT IT IS RECEIVED NO LATER THAN JUNE 27, 2019.**

Any EY Settlement Class Member may attend the Settlement Hearing. Filing a written objection and notice of intention to appear by June 27, 2019 allows you to speak in Court, at the discretion of the Court, about the fairness of the proposed Settlement and/or the request for attorneys' fees and reimbursement of Litigation Expenses. If you submit a written objection, you may (but you do not have to) attend the hearing and, if you also file a notice of intention to appear, speak to the Court about your objection at the discretion of the Court.

**DO NOTHING.**

If you are a member of the EY Settlement Class who/which has not previously submitted a Claim Form, and you do not submit a Claim Form now, you will not be eligible to receive any payment from the Net Settlement Fund. You will, however, remain a member of the EY Settlement Class, which means that you give up your right to sue about the claims that are resolved by the Settlement and you will be bound by any judgments or orders entered by the Court in the Action.

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## WHY DID I GET THIS NOTICE?

8. The Court directed that this Notice be mailed to you because you or someone in your family or an investment account for which you serve as a custodian may have purchased or otherwise acquired MBI common stock in or traceable to the Secondary Offering. The Court has directed us to send you this Notice because, as a potential EY Settlement Class Member, you have a right to know about your options before the Court rules on the proposed EY Settlement. Additionally, you have the right to understand how this class action lawsuit may generally affect your legal rights.

9. The purpose of this Notice is to inform you of the existence of this case, that it is a class action, how you might be affected, and how to exclude yourself from the Class if you wish to so do. It is also being sent to inform you of the terms of the Settlement and of a hearing to be held by the Court to consider the fairness, reasonableness, and adequacy of the EY Settlement (the "Settlement Hearing"). See ¶ 57 below for details about the Settlement Hearing, including the date and location of the hearing.

10. The issuance of this Notice is not an expression of any opinion by the Court concerning the merits of any claim in the Action, and the Court has not yet decided whether to approve the Settlement.

## WHAT IS THIS CASE ABOUT?

11. This case is a securities class action and is known as *Special Situations Funds III QP, L.P. v. Marrone Bio Innovations, Inc., et al.*, Master No. 2:14-cv-2571-MCE-KJN. The Court in charge of the case is the United States District Court for the Eastern District of California, and the presiding judge is the Honorable Morrison C. England, Jr.

12. On and after September 5, 2014, five putative class action complaints (the "Related Actions") were filed in the Court against Defendant MBI and certain of its directors and officers.<sup>2</sup>

13. On February 4, 2015, MBI announced that its Audit Committee investigation of certain revenue recognition issues was substantially complete, and that MBI's management was evaluating the necessity, nature, and scope of any restatements to certain of its financial statements previously filed with the U.S. Securities and Exchange Commission (the "SEC").

14. By Order dated February 13, 2015, the Court consolidated the Related Actions and appointed the Funds as Lead Plaintiffs for the Action and approved Lead Plaintiffs' selection of Lowenstein Sandler LLP as Lead Counsel.

<sup>2</sup> The five actions were (1) *Martinelli v. Marrone Bio Innovations, Inc.*, No. 2:14-cv-2055-MCE-KCN (filed Sept. 5, 2014); (2) *Sausman v. Marrone Bio Innovations, Inc.*, No. 2:14-cv-2072-MCE-KJN (filed Sept. 8, 2014); (3) *Chen v. Marrone Bio Innovations, Inc.*, No. 2:14-cv-2105-MCE-KJN (filed Sept. 11, 2014); (4) *Oldham v. Marrone Bio Innovations, Inc.*, No. 2:14-cv-2130-MCE-KJN (filed Sept. 15, 2014); and (5) *Special Situations Fund III QP, L.P. v. Marrone Bio Innovations, Inc.*, No. 14-cv-2571-MCE-KJN (filed Nov. 3, 2014). Certain of the Related Actions brought claims against Jefferies LLC, Piper Jaffray & Co., Stifel, Nicolaus & Company, Incorporated, and Roth Capital Partners, LLC (collectively, the "Underwriters"). The claims against the Underwriters were released in connection with the MBI Settlement, defined below.

15. During the pendency of the Audit Committee's review, the Court so ordered a number of stipulations extending Lead Plaintiffs' deadline to file a consolidated amended complaint until after the results of the financial statement review were announced.

16. On September 1, 2015, Lead Plaintiffs, along with additional named Plaintiff David M. Fineman ("Fineman") filed and served a Consolidated and Amended Class Action Complaint (the "Amended Complaint"), to preserve certain claims under applicable statutes of limitation. The Amended Complaint added a claim under Section 11 of the Securities Act of 1933 (the "Securities Act") against EY, who audited MBI's 2013 year-end financial statements.

17. On November 10, 2015, MBI announced the final results of the Audit Committee's review, restating the Company's (1) periodic financial statements for all four quarters of 2013, (2) audited financial statements for fiscal year 2013, and (3) unaudited financial statements for the first and second quarters of 2014.

18. On January 11, 2016, Lead Plaintiffs filed and served a Second Consolidated Amended Class Action Complaint for Violations of the Federal Securities Law.

19. On February 17, 2016, the SEC filed lawsuits against MBI and Absi (the "SEC Complaints"), alleging civil violations of the federal securities laws. That same day the United States Attorney for the Eastern District of California unsealed an indictment that alleges that Absi committed, *inter alia*, securities fraud (the "Indictment"). Neither the SEC nor the United States Attorney took any action with respect to EY.

20. In February 2016, MBI entered into a settlement agreement with the SEC. On March 8, 2016, the U.S. District Court for the Eastern District of California entered a final order reflecting the terms of the settlement between MBI and the SEC, and ordered the case closed.

21. Lead Plaintiffs filed a Third Consolidated Amended Complaint for Violations of the Federal Securities Law (the "Third Amended Complaint"), filed with leave of Court on June 2, 2016. The Third Amended Complaint named as Defendants MBI, EY, and the D&O Defendants.

22. The First Cause of Action in the Third Amended Complaint alleges violations of Section 11 of the Securities Act against MBI and certain of the D&O Defendants. The Second Cause of Action alleges violations of Section 15 of the Securities Act against certain of the D&O Defendants. The Third Cause of Action alleges violations of Section 11 of the Securities Act against MBI and certain of the D&O Defendants. The Fourth Cause of Action alleges violations of Section 15 of the Securities Act against certain of the D&O Defendants. The Fifth Cause of Action alleges violations of Section 11 of the Securities Act against Defendant EY. This claim is based on MBI's Secondary Stock Offering that became effective on June 5, 2014. The Sixth Cause of Action alleges violations of Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") against MBI and Absi. The Seventh Cause of Action alleges violations of Section 20(a) of the Exchange Act against certain of the D&O Defendants.

23. The Third Amended Complaint alleges that, among other things, Defendants, respectively in one or more filings made false and misleading statements regarding MBI's revenues, gross profit, and net loss, in violation of generally accepted accounting principles ("GAAP"). The Third Amended Complaint alleges that as a result of these false and misleading statements, the EY Settlement Class suffered a statutory measure of damages under the Securities Act. The Third Amended Complaint further alleges that the price of MBI's common stock was artificially inflated as a result of Defendants' false and misleading statements and omissions, and declined when the truth was revealed.

24. After a mediation session with a private mediator, Lead Plaintiffs and Fineman reached an agreement to settle all claims asserted in the Action against the MBI Defendants.

25. By operation of an Order and Final Judgment as to Settling Parties, dated September 27, 2016, the Court approved Lead Plaintiffs' and Fineman's settlement with the MBI Defendants (the "MBI Settlement"). Pursuant to the MBI Settlement, the Court, *inter alia*, dismissed with prejudice all claims asserted in the Action against the MBI Defendants, which claims include the First, Second, Third, Fourth, Sixth, and Seventh Causes of Action in the Third Amended Complaint; fully and finally released all known and unknown claims against the MBI Defendants; and fully and finally released all claims that were or could have been brought in the Related Actions against the Underwriters. In addition, pursuant to the MBI Settlement, the MBI Defendants and the Underwriters were barred and enjoined from filing any claims against the EY Releasees for contribution, indemnity, or any other claim of similar nature.

26. As a result of the MBI Settlement, \$12 million, net of Court-approved legal fees and litigation expenses of Counsel, was distributed to the members of the settlement classes set up in connection with the EY Settlement.
27. Following the MBI Settlement, EY was the sole remaining Defendant in the Action.
28. On or about March 20, 2017, the Court entered a Memorandum and Order denying EY's motion to dismiss the claims against it (the "Motion to Dismiss").
29. Pursuant to a series of so ordered stipulations, discovery in the action was effectively stayed following the resolution of the Motion to Dismiss while the Settling Parties discussed a potential resolution of the Action.
30. After those voluntary efforts concluded without a resolution, EY moved for reconsideration of the Court's Memorandum and Order denying the Motion to Dismiss, or in the alternative to certify an interlocutory appeal (the "Motion for Reconsideration"). The Court denied the Motion for Reconsideration in a Memorandum and Order dated June 29, 2018.
31. On October 24, 2018, the Settling Parties participated in an in-person mediation session before the Hon. Layn R. Phillips (Ret.) (the "Mediator"), a former federal district court judge in the United States District Court for the Western District of Oklahoma.
32. After arm's-length negotiations and discussions with the Mediator, and the Settling Parties' acceptance of a mediator's recommendation, the Settling Parties reached an agreement in principle to settle the Action subject to the documentation of the settlement in a formal stipulation of settlement and approval by the Court.
33. On January 12, 2019, the Settling Parties entered into a Stipulation and Agreement of Settlement (the "EY Stipulation"), which sets forth the terms and conditions of the EY Settlement. The EY Stipulation can be viewed at [www.MBISecuritiesLitigationSettlement.com](http://www.MBISecuritiesLitigationSettlement.com).
34. On February 14, 2019, the Court preliminarily approved the EY Settlement, authorized this Notice to be disseminated to potential EY Settlement Class Members, and scheduled the Settlement Hearing to consider whether to grant final approval of the Settlement.
35. EY expressly denies that they have violated the federal securities laws or any other laws. EY also has denied and continues to deny specifically each and all of the claims and contentions alleged against it in the Action.

**HOW DO I KNOW IF I AM AFFECTED BY THE SETTLEMENT?  
WHO IS INCLUDED IN THE SETTLEMENT CLASS?**

36. If you are a member of the EY Settlement Class, you are subject to the Settlement, unless you timely request to be excluded. The EY Settlement Class consists of:

All persons or entities who or which purchased or otherwise acquired MBI common stock directly in or traceable to the Company's secondary offering pursuant to MBI's Form S-1 Registration Statement, dated May 16, 2014, and its Prospectus dated June 5, 2014, and were damaged thereby.

Excluded from the EY Settlement Class are the Settling Defendant; members of the Immediate Family of each of the Individual Defendants; the Officers and/or directors of MBI during the Settlement Class Period; and any firm, trust, corporation, or other entity in which any Settling Defendant has or had a controlling interest. Also excluded from the Settlement Class are any persons or entities that exclude themselves by submitting a request for exclusion in accordance with the requirements set forth in this Notice. See "What If I Do Not Want To Be A Member Of The Settlement Class? How Do I Exclude Myself?" on page 10 below.

**PLEASE NOTE: RECEIPT OF THIS NOTICE DOES NOT MEAN THAT YOU ARE AN EY SETTLEMENT CLASS MEMBER OR THAT YOU WILL BE ENTITLED TO RECEIVE MONEY FROM THE SETTLEMENT.**

**IF YOU SUBMITTED A CLAIM FORM THAT WAS APPROVED FOR PAYMENT IN CONNECTION WITH THE MBI SETTLEMENT, DO NOT SUBMIT ANOTHER FORM. IF YOU HAVE NOT PREVIOUSLY SUBMITTED A CLAIM FORM AND WISH TO BE ELIGIBLE TO PARTICIPATE IN THE DISTRIBUTION OF PROCEEDS FROM THE SETTLEMENT, YOU ARE REQUIRED TO SUBMIT A CLAIM FORM POSTMARKED NO LATER THAN MAY 6, 2019.**

## WHAT ARE THE LEAD PLAINTIFFS' REASONS FOR THE SETTLEMENT?

37. Lead Plaintiffs and Lead Counsel believe that the claims asserted against EY have merit. They recognize, however, the expense and length of continued proceedings necessary to pursue their claims against EY through trial and appeals, as well as the very substantial risks they would face in establishing liability and damages. Such risks include the potential challenges associated with proving that there were material misstatements and omissions in the Secondary Offering documents at issue, that EY failed to conduct adequate due diligence, and class-wide damages. Lead Plaintiffs would have to prevail at several stages—including motions for summary judgment and trial, and if they prevailed on those, on the appeal that would likely follow. Thus, there were very significant risks attendant to the continued prosecution of the claims against EY. Moreover, EY was the beneficiary of a statutory judgment reduction that would significantly reduce any eventual judgment against it by operation of law.

38. In light of these risks, the immediacy of the cash recovery, and the significant cash recovery on behalf of the members of the EY Settlement Class in connection with the earlier MBI Settlement, Lead Plaintiffs and Lead Counsel believe that the proposed EY Settlement is an excellent result, and is in the best interests of the EY Settlement Class.

39. EY has agreed to the EY Settlement solely to eliminate the burden and expense of continued litigation. EY denies the claims asserted against it in the Action and denies having engaged in any wrongdoing or violation of law of any kind whatsoever, including, but not limited to any assertion that its audit of the year end 2013 financial statements of Marrone were not performed in full compliance with applicable PCAOB standards.

## WHAT MIGHT HAPPEN IF THERE WERE NO SETTLEMENT?

40. If there were no settlement and Lead Plaintiffs failed to establish any essential legal or factual element of their claims against EY, neither Lead Plaintiffs nor the other members of the EY Settlement Class would recover anything from EY. Also, if EY was successful in proving any of their defenses, either at summary judgment, at trial or on appeal, the EY Settlement Class could recover substantially less than the amount provided in the Settlement, or nothing at all. Finally, even if Lead Plaintiffs and the EY Settlement Class were successful in securing a final, non-appealable judgment against EY after trial, EY would still benefit from a statutory judgment reduction that would substantially deplete any recovery on behalf the EY Settlement Class.

## HOW ARE SETTLEMENT CLASS MEMBERS AFFECTED BY THE ACTION AND THE SETTLEMENT?

41. As an EY Settlement Class Member, you are represented by Lead Plaintiffs and Lead Counsel, unless you enter an appearance through counsel of your own choice at your own expense. You are not required to retain your own counsel. EY Settlement Class Members may enter an appearance through an attorney if they so desire, but such counsel must file and serve a notice of appearance as provided in ¶ 63 below and will be retained at the individual EY Settlement Class Member's expense.

42. If you are an EY Settlement Class Member and you do not exclude yourself from the EY Settlement Class, you will be bound by any orders issued by the Court. If the EY Settlement is approved, the Court will enter a judgment (the "Judgment"). The Judgment will provide that, upon the Effective Date of the EY Settlement, Lead Plaintiffs and each of the other EY Settlement Class Members, on behalf of themselves and their respective heirs, executors, administrators, predecessors, successors, and assigns, in their capacities as such, will have fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged each and every Released Lead Plaintiffs' Claim (as defined in ¶ 43 below) against EY and EY's Releasees (as defined in ¶ 44 below), and will forever be barred and enjoined from prosecuting any or all of the Released Lead Plaintiffs' Claims against any of EY's Releasees.

43. "Released Lead Plaintiffs' Claims" means any and all claims, rights, causes of action, and liabilities of every nature and description, whether known claims or Unknown Claims, whether arising under any federal, state, foreign, statutory, or common law, or any other law, rule, or regulation, whether fixed or contingent, accrued or unaccrued, matured or unmatured, liquidated or unliquidated, at law or in equity, whether class or individual in nature, that Lead Plaintiffs or any other member of the EY Settlement Class (a) asserted against EY in the Complaint or in any complaint filed in the Action, or (b) asserted, could have asserted, might have asserted, or in the future asserts against EY in the Action or in any other action or in any other forum and that arise out of, are based upon, are related to, or are in consequence of any of the allegations, transactions, facts, matters, occurrences, events, disclosures, statements, representations, or omissions involved, set forth, or referred to in the Complaint or that otherwise would have been barred by *res judicata* had the Action been certified as a class action on behalf of the Secondary Offering class proposed to be certified in the Complaint and litigated to a final judgment. Released Lead Plaintiffs' Claims do not include any of the Excluded Claims.

44. “EY’s Releasees” means EY as well as any EY affiliated member firm and/or affiliate, and any and all of its and their respective current and former officers, directors, partners, agents, parents, affiliates, subsidiaries, successors, predecessors, assigns, assignees, employees, Immediate Family, insurers and reinsurers, and attorneys, in their capacities as such.

45. “Unknown Claims” means any Released Lead Plaintiffs’ Claims which Lead Plaintiffs or other EY Settlement Class Members do not know or suspect to exist in his, her, or its favor at the time of the release of such claims, and any EY Claims which EY does not know or suspect to exist in his, her, or its favor at the time of the release of such claims, which, if known by him, her, or it, might have affected his, her, or its decision(s) with respect to this Settlement. With respect to any and all Released Claims, Lead Plaintiffs and EY stipulate and agree that, upon the Effective Date of the Settlement, Lead Plaintiffs and EY shall expressly waive, and each of the other EY Settlement Class Members shall be deemed to have waived, and by operation of the Judgment or the Alternate Judgment, if applicable, shall have expressly waived, any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law or foreign law, which is similar, comparable, or equivalent to California Civil Code § 1542, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Lead Plaintiffs and EY acknowledge, and each of the other EY Settlement Class Members shall be deemed by operation of law to have acknowledged, that the foregoing waiver was separately bargained for and a material element of the EY Settlement.

46. The Judgment will also provide that, upon the Effective Date of the EY Settlement, EY, on behalf of itself and its respective heirs, executors, administrators, predecessors, successors, and assigns, in their capacities as such, will have fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged each and every of the EY Claims (as defined in ¶ 47 below) against Lead Plaintiffs and the other Lead Plaintiffs’ Releasees (as defined in ¶ 48 below), and shall forever be barred and enjoined from prosecuting any or all EY Claims against any of Lead Plaintiffs’ Releasees.

47. “EY Claims” means any and all claims, rights, causes of action, and liabilities of every nature and description, whether known claims or Unknown Claims, whether arising under any federal, state, foreign, statutory, or common law, or any other law, rule, or regulation, whether fixed or contingent, accrued or unaccrued, matured or unmatured, liquidated or unliquidated, at law or in equity, that arise out of, are based upon, are related to, or are in consequence of the institution, prosecution, or settlement of the claims brought in the Action by Lead Plaintiffs and their attorneys, including Lead Plaintiffs’ Counsel, against EY, except for claims relating to the enforcement of the EY Settlement.

48. “Lead Plaintiffs’ Releasees” means Lead Plaintiffs and their attorneys, including Lead Plaintiffs’ Counsel, and their respective current and former Officers, directors, agents, parents, affiliates, subsidiaries, successors, predecessors, assigns, assignees, employees, Immediate Family, insurers and reinsurers, and attorneys, in their capacities as such.

## **HOW MUCH WILL MY PAYMENT FROM THE SETTLEMENT BE? HOW DO I PARTICIPATE IN THE SETTLEMENT? WHAT DO I NEED TO DO?**

49. At this time, it is not possible to make any determination as to how much any individual EY Settlement Class Member may receive from the proceeds of the Settlement achieved.

50. The Proceeds of the EY Settlement will be distributed in accordance with the Plan of Allocation that was previously mailed to you in connection with the notice of the settlement achieved with the MBI Defendants, which was approved by the Court on September 27, 2016. The amounts to be distributed to individual EY Settlement Class Members from the EY Settlement under the Plan of Allocation will depend on a variety of factors, including the number of other EY Settlement Class Members who submit claims against the Settlement Fund; the number of shares of MBI common stock in or traceable to the Secondary Offering you purchased; the prices and dates of those purchases; and the prices and dates of any sales of such common stock. The Plan of Allocation approved by the Court will be utilized for determining the allocation of the Net Settlement Fund to EY Settlement Class Members subject to the following modifications: (i) the Net Settlement Fund shall be added to “Fund #2: The Secondary Fund” referred to in Paragraph 57(b) of the Proposed Plan of Allocation, solely for distribution to Authorized Claimants who are EY Settlement Class Members; and (ii) the date “August 1, 2016” in Paragraph 66(D) of the Proposed Plan of Allocation shall be superseded and replaced by “May 24, 2019.”

51. To be eligible for a payment from the proceeds of the EY Settlement, you must be a member of the EY Settlement Class and have either (i) previously submitted a Claim Form in connection with the previously announced MBI Settlement in this Action (meaning you are considered a “Prior Approved Claimant” under the EY Stipulation), or (ii) complete and return a Proof of Claim Form postmarked no later than May 6, 2019. You may obtain a Proof of Claim Form at [www.MBISecuritiesLitigationSettlement.com](http://www.MBISecuritiesLitigationSettlement.com) or by calling (855) 907-3227. If you request exclusion from the Class, you will not be able to receive a payment from the Net Settlement Fund.

**NOTE: If you submitted a Claim Form that was approved for payment from the Secondary Class in connection with the MBI Settlement, DO NOT submit another form.**

### **WHAT PAYMENT ARE THE LAWYERS FOR THE SETTLEMENT CLASS SEEKING? HOW WILL THE LAWYERS BE PAID?**

52. Court-appointed Lead Counsel, Lowenstein Sandler LLP, have been prosecuting this Action on a wholly contingent basis since its inception in 2014 and have advanced the funds to pay expenses necessarily incurred to prosecute the Action. Before final approval of the EY Settlement, Lead Counsel will apply to the Court for an award of attorneys’ fees in an amount not to exceed 33% of the Settlement Fund. At the same time, Lead Counsel will apply for reimbursement of Litigation Expenses paid or incurred in connection with the institution, prosecution, and resolution of the Action, in an amount not to exceed \$120,000, which may include an application for reimbursement of the reasonable costs and expenses incurred by Lead Plaintiffs directly related to its representation of the EY Settlement Class. The Court will determine the amount of any award of attorneys’ fees or reimbursement of Litigation Expenses. Such sums as may be approved by the Court will be paid from the Settlement Fund. EY Settlement Class Members are not personally liable for any such fees or expenses.

### **WHAT IF I DO NOT WANT TO BE A MEMBER OF THE SETTLEMENT CLASS? HOW DO I EXCLUDE MYSELF?**

53. Each EY Settlement Class Member will be bound by all determinations and judgments in this lawsuit, whether favorable or unfavorable, unless such person or entity mails or delivers a written Request for Exclusion from the EY Settlement Class, addressed to MBI EY Securities Litigation, c/o Epiq, P.O. Box 3219, Portland, OR 97208-3219. The exclusion request must be **received no later than June 27, 2019**. You will not be able to exclude yourself from the EY Settlement Class after that date. Each Request for Exclusion must (a) state the name, address, and telephone number of the person or entity requesting exclusion, and in the case of entities, the name and telephone number of the appropriate contact person; (b) state that such person or entity “requests exclusion from the EY Settlement Class in *Special Situations Funds III QP, L.P. v. Marrone Bio Innovations, Inc., et al.*, Master No. 2:14-cv-2571-MCE-KJN”; (c) state the number of shares of MBI common stock that the person or entity requesting exclusion purchased, acquired, and/or sold, as well as the number of shares, dates, and prices for each such purchase and/or sale; and (d) be signed by the person or entity requesting exclusion or an authorized representative. A Request for Exclusion shall not be valid and effective unless it provides all the information called for in this paragraph and is received within the time stated above, or is otherwise accepted by the Court. Lead Counsel may, at their discretion, request from any person or entity requesting exclusion documentation sufficient to prove his, her, or its purchases and/or sales of MBI common stock.

54. If you do not want to be part of the EY Settlement Class, you must follow these instructions for exclusion even if you have pending, or later file, another lawsuit, arbitration, or other proceeding relating to any Released Lead Plaintiffs’ Claim against any of EY’s Releasees.

55. If you ask to be excluded from the EY Settlement Class, you will not be eligible to receive any payment from the Net Settlement Fund.

56. EY has the right to terminate the EY Settlement if valid requests for exclusion are received from persons and entities entitled to be members of the EY Settlement Class in an amount that exceeds an amount agreed to by Lead Plaintiffs and EY.

**WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT? DO I HAVE TO COME TO THE HEARING? MAY I SPEAK AT THE HEARING IF I DON'T LIKE THE SETTLEMENT?**

57. The Settlement Hearing will be held on July 11, 2019, at 2:00 p.m., before the Honorable Morrison C. England, Jr., at the United States District Court for the Eastern District of California, Robert T. Matsui United States Court House, Courtroom 7, 501 I Street, Sacramento, CA 95814. The Court reserves the right to approve the EY Settlement and/or Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses and/or any other matter related to the EY Settlement at or after the Settlement Hearing without further notice to the members of the Settlement Class.

58. **EY Settlement Class Members do not need to attend the Settlement Hearing. The Court will consider any submission made in accordance with the provisions below even if an EY Settlement Class Member does not attend the hearing. Participation in the EY Settlement is not conditioned on attendance at the Settlement Hearing.**

59. Any EY Settlement Class Member who or which does not request exclusion may object to the Settlement and/or Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses. Objections must be in writing. You must file any written objection, together with copies of all other papers and briefs supporting the objection, with the Clerk's Office at the United States District Court for the Eastern District of California at the address set forth below **on or before June 27, 2019**. You must also serve the papers on Lead Counsel and on EY's counsel at the addresses set forth below so that the papers are *received on or before June 27, 2019*.

**CLERK'S OFFICE**

United States District Court  
Eastern District of California  
Clerk of the Court  
Robert T. Matsui United States  
Court House  
501 I Street, Room 4-200  
Sacramento, CA 95814

**LEAD COUNSEL**

**Lowenstein Sandler LLP**  
Lawrence M. Rolnick, Esq.  
1251 Avenue of the Americas  
New York, NY 10020  
(212) 262-6700

**EY'S COUNSEL**

**Mayer Brown LLP**  
Stanley J. Parzen, Esq.  
71 South Wacker Drive  
Chicago, IL 60606  
(312) 782-0600

60. Any objection (a) must state the name, address, and telephone number of the person or entity objecting, and must be signed by the objector; (b) must contain a statement of the EY Settlement Class Member's objection or objections, and the specific reasons for each objection, including any legal and evidentiary support the EY Settlement Class Member wishes to bring to the Court's attention; and (c) must include documents sufficient to prove membership in the EY Settlement Class, including the number of shares of MBI common stock that the objecting Settlement Class Member purchased and/or sold, as well as the dates and prices of each such purchase and sale. Documents sufficient to prove membership in the EY Settlement Class include brokerage statements, confirmation slips, or authorized statements from a broker containing the transaction and holding information found in a confirmation slip or account statement. You may not object to the EY Settlement and/or Lead Counsel's motion for attorneys' fees and reimbursement of Litigation Expenses if you exclude yourself from the EY Settlement Class or if you are not a member of the EY Settlement Class.

61. You may file a written objection without appearing at the Settlement Hearing. You may not, however, appear at the Settlement Hearing to present your objection unless you first file and serve a written objection in accordance with the procedures described above, unless the Court orders otherwise.

62. If you wish to be heard orally at the hearing in opposition to the approval of the EY Settlement and/or Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses, and if you timely file and serve a written objection as described above, you must also file a notice of appearance with the Clerk's Office and serve it on Lead Counsel and EY's counsel at the addresses set forth above so that it is *received on or before June 27, 2019*. Persons who intend to object and desire to present evidence at the Settlement Hearing must include in their written objection or notice of appearance the identity of any witnesses they may call to testify and exhibits they intend to introduce into evidence at the hearing. Such persons may be heard orally at the discretion of the Court.

63. You are not required to hire an attorney to represent you in making written objections or in appearing at the Settlement Hearing. However, if you decide to hire an attorney, it will be at your own expense, and that attorney must file a notice of appearance with the Court and serve it on Lead Counsel and EY's counsel at the addresses set forth in ¶ 59 above so that the notice is *received on or before June 27, 2019*.

64. The Settlement Hearing may be adjourned by the Court without further written notice to the EY Settlement Class. If you intend to attend the Settlement Hearing, you should confirm the date and time with Lead Counsel.

65. **Unless the Court orders otherwise, any EY Settlement Class Member who does not object in the manner described above will be deemed to have waived any objection and shall be forever foreclosed from making any objection to the proposed Settlement and/or Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses. EY Settlement Class Members do not need to appear at the Settlement Hearing or take any other action to indicate their approval.**

### WHAT IF I BOUGHT SHARES ON SOMEONE ELSE'S BEHALF?

66. If you purchased MBI common stock directly in or traceable to the Secondary Offering for the beneficial interest of persons or entities other than yourself, and in connection with the previously disseminated notice concerning the MBI Settlement:

a. **You elected to forward the notice of the MBI Settlement to potential members of the earlier settlement classes**, the Claims Administrator will forward copies of this Notice to you and you must, within seven (7) calendar days of receipt of this Notice, mail it to such beneficial owners.

b. **You provided the Claims Administrator with the names and addresses of beneficial owners**, you do not need to do anything more in connection with this Notice.

If you previously elected to forward notices to potential class members, you must send a statement to the Claims Administrator confirming that the mailing was made. If you chose the second option, the Claims Administrator will send a copy of the Notice to the beneficial owners. Upon full compliance with these directions, you may seek reimbursement of your reasonable expenses actually incurred, by providing the Claims Administrator with proper documentation supporting the expenses for which reimbursement is sought. Copies of this Notice and the Claim Form may also be obtained from the website maintained by the Claims Administrator, [www.MBISecuritiesLitigationSettlement.com](http://www.MBISecuritiesLitigationSettlement.com), or by calling the Claims Administrator toll-free at (855) 907-3227.

### CAN I SEE THE COURT FILE? WHOM SHOULD I CONTACT IF I HAVE QUESTIONS?

67. This Notice contains only a summary of the terms of the proposed EY Settlement. For more detailed information about the matters involved in this Action, you are referred to the papers on file in the Action, including the Stipulation, which may be inspected during regular office hours at the Office of the Clerk, United States District Court for the Eastern District of California, Robert T. Matsui United States Court House, 501 I Street, Room 4-200, Sacramento, California 95814. Additionally, copies of the Stipulation and any related orders entered by the Court will be posted on the website maintained by the Claims Administrator, [www.MBISecuritiesLitigationSettlement.com](http://www.MBISecuritiesLitigationSettlement.com).

All inquiries concerning this Notice and the Claim Form should be directed to:

MBI EY Securities Litigation  
c/o Epiq  
P.O. Box 3219  
Portland, OR 97208-3219  
(855) 907-3227

and/or

Lawrence M. Rolnick, Esq.  
LOWENSTEIN SANDLER LLP  
1251 Avenue of the Americas  
New York, NY 10020  
(212) 262-6700

[www.MBISecuritiesLitigationSettlement.com](http://www.MBISecuritiesLitigationSettlement.com)

**DO NOT CALL OR WRITE THE COURT, THE OFFICE OF THE CLERK OF THE COURT, EY, OR ITS COUNSEL REGARDING THIS NOTICE.**

Dated: March 5, 2019

By Order of the Court  
United States District Court  
Eastern District of California