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NOT FOR CITATION
**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

RICHARD LAFFIN, On Behalf of Himself and All
Others Similarly Situated,

Plaintiff,

v.

CERUS CORPORATION, et al.,

Defendants.

Case Number C-03-5517-JF (RS)

ORDER (1) GRANTING MOTION
FOR CONSOLIDATION; (2)
DENYING WITHOUT PREJUDICE
MOTION FOR PRESERVATION OF
DOCUMENTS; AND (3) GRANTING
MOTION FOR APPOINTMENT OF
LEAD PLAINTIFF AND APPROVAL
OF LEAD PLAINTIFF’S COUNSEL

[Doc. Nos. 5 and 8]

On March 22, 2004, the Court heard three motions brought by Plaintiffs: (1) motion for consolidation; (2) motion for preservation of documents; and (3) motion for appointment of Lead Plaintiff and approval of Lead Plaintiff’s counsel. The Court has considered the moving and responding papers as well as the oral argument presented at the hearing. The Court disposes of the motions as follows:

I. MOTION FOR CONSOLIDATION

1
2 Plaintiffs request that the following actions be consolidated for all purposes under Fed. R.
3 Civ. P. 42(a) on the grounds that the actions are substantially identical and are brought against
4 similar defendants: *Laffin v. Cerus Corp.*, Case No. C-03-5517-JF and *Shearer v. Cerus Corp.*,
5 Case No. C-03-5563-SBA. Defendants agree that the actions should be consolidated and no
6 party has opposed the motion for consolidation. The Court concludes that consolidation is
7 appropriate. Accordingly, the motion for consolidation is GRANTED. Plaintiffs shall file a
8 consolidated class action complaint within sixty days after service of this order.

II. MOTION FOR PRESERVATION OF DOCUMENTS

9
10 Plaintiffs request an order requiring Defendants to preserve documents and to certify that
11 documents have not been destroyed, altered or concealed. Defendants oppose this motion,
12 pointing out that the Private Securities Litigation Reform Act of 1995 ("Reform Act"), Pub. L.
13 No. 104-67 (1995) already requires that parties with notice of the complaint treat documents
14 relevant to the allegations "as if they were the subject of a continuing request for production of
15 documents." 15 U.S.C. § 78u-4(b)(3)(C)(i). Plaintiffs have not demonstrated that Defendants
16 have destroyed or are likely to destroy documents in the instant case and have not otherwise
17 demonstrated why the Reform Act's provisions are inadequate. The authority Plaintiffs rely
18 upon in bringing their motion, the Sarbanes-Oxley Act of 2002, addresses federal investigations,
19 not private securities fraud class actions. Accordingly, the motion for preservation of documents
20 is DENIED WITHOUT PREJUDICE to renewal in the event Plaintiffs can demonstrate that
21 Defendants have destroyed or are likely to destroy relevant documents despite the provisions of
22 the Reform Act.

III. MOTION FOR APPOINTMENT OF LEAD PLAINTIFF/APPROVAL OF COUNSEL

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24 The Carnot Group has filed a motion seeking appointment as lead plaintiff and for
25 approval of its selection of Patrick J. Coughlin and John K. Grant of Milberg Weiss Bershad
26 Hynes & Lerach LLP as lead plaintiff's counsel. No other party has sought appointment as lead
27 plaintiff and no other party has opposed the Carnot Group's motion. The Court is satisfied that
28 the Carnot Group is an appropriate lead plaintiff and that the Milberg Weiss firm competently

1 can fulfill the role of lead plaintiff's counsel. Accordingly, the motion for appointment of lead
2 plaintiff and approval of lead plaintiff's counsel is GRANTED.

3 IT IS SO ORDERED.

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6 DATED: March 22, 2004

7 /s/ (electronic signature authorized)

8 JEREMY FOGEL
9 United States District Judge
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1 This Order has been served upon the following persons:

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