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6 Attorneys for Defendants
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 7 PETER BARTON HUTT, JOSEPH M. LIMBER,
 KELVIN M. NEU, PATRICK J. SCANNON,
 8 JOHN VARIAN, TIMOTHY P. WALBERT,
 PAUL D. RUBIN AND JACK L. WYSZOMIERSKI
 9 and Nominal Defendant XOMA CORPORATION

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 11
 12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA
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15 DEBORAH A. FIESER, derivatively on
 16 behalf of XOMA CORPORATION,

17 Plaintiff,

18 v.

19 W. DENMAN VAN NESS, WILLIAM K.
 BOWES, JR., PETER BARTON HUTT,
 20 JOSEPH M. LIMBER, KELVIN M. NEU,
 PATRICK J. SCANNON, JOHN
 21 VARIAN, TIMOTHY P. WALBERT,
 PAUL D. RUBIN AND JACK L.
 22 WYSZOMIERSKI and Nominal Defendant
 XOMA CORPORATION,

23 Defendants.
 24

Case No. 4:15-CV-05236-HSG

**STIPULATION AND ORDER TO EXTEND
 TIME FOR DEFENDANTS TO RESPOND TO
 COMPLAINT AND RESCHEDULE CASE
 MANAGEMENT CONFERENCE**

Judge: Honorable Haywood S. Gilliam

1
2 Pursuant to Civil Local Rules 6-1, 6-2, and 7-12 Plaintiff Deborah A. Fieser (“Plaintiff”)
3 and Defendants W. Denman Van Ness, William K. Bowes, Jr., Peter Barton Hutt, Joseph M.
4 Limber, Kelvin M. Neu, Patrick J. Scannon, John Varian, Timothy P. Walbert, Paul D. Rubin,
5 Jack L. Wyszomierski, and Nominal Defendant XOMA Corporation (collectively,
6 “Defendants”), by and through their respective counsel, hereby agree and stipulate that good
7 cause exists to request an order from the Court extending Defendants’ deadline to respond to the
8 Complaint until April 4, 2016 and rescheduling the initial Case Management Conference
9 currently set in this action for March 22, 2016 to May 10, 2016, and to adjust accordingly the
10 related deadlines set forth therein.

11 WHEREAS, Joseph Markette filed a securities class action lawsuit against XOMA, John
12 Varian, and Paul Rubin relating to XOMA’s EYEGUARD-B study in the United States Court for
13 the Northern District of California, captioned *Markette v. XOMA Corp., et. al.*, 3:15-CV-3425-
14 HSG, on July 24, 2015;

15 WHEREAS, Plaintiff Deborah A. Fieser filed this related shareholder derivative action,
16 captioned *Fieser v. W. Denman Van Ness, et. cal.*, Case No. 4:15-CV-05236, on November 16,
17 2015 (“*Fieser Complaint*”);

18 WHEREAS, on January 11, 2016, Magistrate Judge Kandis A. Westmore entered an
19 order extending Defendants’ time to respond to the *Fieser Complaint* from January 19, 2016 to
20 February 19, 2016 and rescheduling the case management conference to March 22, 2016;

21 WHEREAS, on January 12, 2016, Judge Westmore referred this action to this Court to
22 determine whether it should be related to *Markette v. XOMA Corp., et. al.*;

23 WHEREAS, on January 25, 2016, this Court entered an order relating this action to
24 *Markette v. XOMA Corp., et. al.*, and reassigning it to Judge Haywood S. Gilliam;

25 WHEREAS, in an effort to avoid duplication of effort and maximize judicial economy,
26 the parties have been discussing various case management procedures, including a potential stay
27 of this action pending further developments in *Markette v. XOMA Corp., et. al.*, but have yet to
28

1 reach agreement;

2 WHEREAS, in order to conserve party and Court resources, Plaintiff and Defendants
3 agree to extend Defendants' deadline to respond to the *Fieser* Complaint to April 4, 2016 to
4 provide the parties with additional time to reach agreement regarding case management
5 procedures, including a potential stay of this action;

6 WHEREAS Plaintiff and Defendants further agree that the initial Case Management
7 Conference should be rescheduled for May 10, 2016 and that all associated deadlines (including
8 ADR deadlines) be rescheduled accordingly.

9 WHEREAS this stipulation shall not be deemed a waiver of any rights or defenses by any
10 party, including, but not limited to, the right of the Defendants to raise personal and subject
11 matter jurisdiction issues or to file any motions to dismiss or motions, the right to object to any
12 discovery requests on any grounds, and this stipulation shall in no way constitute an appearance
13 for the purpose of personal jurisdiction over any party;

14 NOW THEREFORE, THE FOLLOWING IS HEREBY STIPULATED by and between
15 the parties, through their respective counsel:

- 16 1. To avoid duplicative efforts and promote judicial economy, Defendants shall have
17 no obligation to respond to the *Fieser* Complaint until April 4, 2015.
- 18 2. The scheduled initial Case Management Conference will be rescheduled to May
19 10, 2016 and all related deadlines (including ADR deadlines) will be adjusted
20 accordingly.

21 IT IS SO STIPULATED.

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1 Dated: February 2, 2016

2 COOLEY LLP
3 JESSICA VALENZUELA SANTAMARIA (220934)
4 JOHN C. DWYER (136533)
5 AMANDA A. MAIN (260814)
6 BRETT H. DE JARNETTE (292919)

7 */s/ Jessica Valenzuela Santamaria*

8 _____
9 Jessica Valenzuela Santamaria (220934)

10 Attorneys for Defendants W. DENMAN VAN NESS,
11 WILLIAM K. BOWES, JR., PETER BARTON HUTT,
12 JOSEPH M. LIMBER, KELVIN M. NEU, PATRICK J.
13 SCANNON, JOHN VARIAN, TIMOTHY P.
14 WALBERT, PAUL D. RUBIN AND JACK L.
15 WYSZOMIERSKI and Nominal Defendant XOMA
16 CORPORATION

17 Dated: February 2, 2016

18 GREEN & NOBLIN, P.C.
19 ROBERT S. GREEN (136183)
20 JAMES ROBERT NOBLIN (114442)

21 And

22 FEDERMAN & SHERWOOD
23 WILLIAM B. FEDERMAN

24 */s/ Robert S. Green*

25 _____
26 Robert S. Green (136183)

27 Attorneys for Plaintiff DEBORAH A. FIESER

28 **PURSUANT TO STIPULATION, IT IS SO ORDERED**

DATED: February 8, 2016



Honorable Haywood S. Gilliam, Jr.
United States District Judge

