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6 Attorneys for Defendants  
 JOHN VARIAN, PAUL D. RUBIN, PATRICK J. SCANNON,  
 7 WILLIAM K. BOWES, JR., PETER BARTON HUTT,  
 JOSEPH M. LIMBER, W. DENMAN VAN NESS,  
 8 TIMOTHY P. WALBERT, AND JACK L. WYSZOMIERSKI  
 and Nominal Defendant XOMA CORPORATION  
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 12 UNITED STATES DISTRICT COURT  
 13 NORTHERN DISTRICT OF CALIFORNIA  
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15 JEFFREY CSOKA, derivatively on  
 behalf of XOMA CORPORATION,

16 Plaintiff,

17 v.

18 JOHN VARIAN, PAUL D. RUBIN,  
 19 PATRICK J. SCANNON, WILLIAM K.  
 BOWES, JR., PETER BARTON HUTT,  
 20 JOSEPH M. LIMBER, W. DENMAN VAN  
 NESS, TIMOTHY P. WALBERT,  
 21 AND JACK L. WYSZOMIERSKI,

22 Defendants,

23 And

24 XOMA CORPORATION,

25 Nominal Defendant.  
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Case No. 3:15-CV-05429 JST

**STIPULATION AND ~~PROPOSED~~  
 ORDER STAYING THE ACTION**

Judge: Honorable Jon S. Tigar

1 Plaintiff Jeffrey Csoka ("Plaintiff"), nominal defendant XOMA Corporation ("XOMA"),  
2 and individual defendants Patrick J. Scannon, John W. Varian ("Varian"), Paul D. Rubin  
3 ("Rubin"), William K. Bowes Jr., Peter Barton Hutt, Joseph M. Limber, W. Denman Van Ness,  
4 Timothy P. Walbert, Jack Wyszomierski, and Kelvin M. Neu (the "Individual Defendants," and  
5 together with XOMA, the "Defendants"), by and through their undersigned counsel, stipulate as  
6 follows:

7 WHEREAS, on July 24, 2015, a securities class action (the "Securities Action") was filed  
8 in the U.S. District Court for the Northern District of California against XOMA and defendants  
9 Varian and Rubin, captioned *Markette v. XOMA Corporation, et al.*, No. 3:15-cv-03425-HSG,  
10 and several motions for the appointment of lead plaintiff and lead counsel have been filed in the  
11 Securities Action;

12 WHEREAS the factually related above-captioned shareholder derivative action (the  
13 "Derivative Action") alleges, among other things, breaches of fiduciary duties and violations of  
14 law by certain of the directors and officers of XOMA;

15 WHEREAS, a factually related shareholder derivative complaint, captioned *Silva v.*  
16 *Scannon, et al.*, Sup. Ct. Case No. RG15787990, was previously filed on October 1, 2015 and is  
17 pending before the Superior Court of the State of California, County of Alameda (the "State  
18 Derivative Action");

19 WHEREAS, Defendants intend to file a motion to dismiss in the Securities Action and, if  
20 any amended complaints are filed therein, Defendants intend to file motions to dismiss the  
21 amended complaints as well;

22 WHEREAS, the State Derivative Action has been stayed pending further developments  
23 in the Securities Action;

24 WHEREAS, Plaintiff and Defendants (collectively, the "Parties") in the Derivative  
25 Action have met and conferred regarding the most efficient manner in which to proceed;

26 WHEREAS, the Parties agree that the ruling on any anticipated motions to dismiss in the  
27 Securities Action may help inform the manner in which the Derivative Action proceeds; and  
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1 WHEREAS, based upon the circumstances unique to the Derivative Action and in  
2 furtherance of the goal of judicial economy, the Parties agree that the interests of justice and  
3 efficient and effective case management would best be served by staying the Derivative Action  
4 pending a resolution of all motions to dismiss in the Securities Action;

5 NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED by the Parties,  
6 through their respective counsel of record, as follows:

7 **TEMPORARY STAY OF THE DERIVATIVE ACTION**

8 1. Subject to paragraph 2 below, all proceedings in the Derivative Action shall be  
9 stayed until the resolution of all motions to dismiss the Securities Action.

10 2. Upon expiration of the stay, the Parties in the Derivative Action will meet and  
11 confer in good faith to determine a schedule for the Derivative Action going forward, and will  
12 submit a proposed scheduling stipulation for this Court's review and approval.

13 3. Defendants shall not be obligated to respond to the complaint filed in the  
14 Derivative Action until a scheduling stipulation has been entered by the Court pursuant to  
15 paragraph 2 above after the stay has been lifted. Notwithstanding the stipulated stay, Plaintiff  
16 shall be permitted to file an amended complaint during the pendency of the stay, but Defendants  
17 shall be under no obligation to respond to any complaint while the stay is in effect. Defendants  
18 reserve all of their defenses to the claims asserted by Plaintiff and other rights, and the stay shall  
19 not be, and shall not be deemed, a waiver of any of Defendants' defenses or other rights.

20 4. The Parties agree that any challenges to Plaintiff's allegations that demand on the  
21 XOMA Board of Directors (the "Board") is or was futile will be determined based on the  
22 composition of the Board as of the time the first complaint in this action was filed.

23 5. This Stipulation shall not preclude or prevent the Parties from stipulating to, or  
24 moving for, a court order lifting, modifying or extending the terms of this Stipulation upon a  
25 showing of good cause.

26 6. By entering into this Stipulation, the Parties do not waive any rights not  
27 specifically addressed herein, including the right to file any motion any party deems appropriate  
28 once this case is no longer temporarily stayed.

1 IT IS SO STIPULATED.

2 Dated: May 18, 2016

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4  
5 /s/ Jessica Valenzuela Santamaria  
6 \_\_\_\_\_  
Jessica Valenzuela Santamaria (220934)

7 Attorneys for Defendants JOHN VARIAN, PAUL D.  
RUBIN, PATRICK J. SCANNON, WILLIAM K.  
8 BOWES, JR., PETER BARTON HUTT, JOSEPH M.  
LIMBER, W. DENMAN VAN NESS, TIMOTHY P.  
9 WALBERT, AND JACK L. WYSZOMIERSKI and  
Nominal Defendant XOMA CORPORATION

10 Dated: May 18, 2016

LAW OFFICE OF ADAM R. BERNSTEIN  
ADAM BERNSTEIN (132982)

11  
12 /s/ Adam Bernstein  
13 \_\_\_\_\_  
Adam Bernstein (132982)

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21 Attorneys for Plaintiff JEFFREY CSOKA

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1 **ATTESTATION OF CONCURRENCE IN FILING**

2 Pursuant to Local Rule 5-1 of The United States District Court for the Northern District of  
3 California, I, Jessica Valenzuela Santamaria, hereby attest that the concurrence to the filing of the  
4 foregoing document has been obtained from Adam Bernstein, who provided the conformed  
5 signature above.

6 Dated: May 18, 2016

7 COOLEY LLP  
8 JESSICA VALENZUELA SANTAMARIA (220934)  
9 JOHN C. DWYER (136533)  
10 AMANDA A. MAIN (260814)  
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12 /s/ Jessica Valenzuela Santamaria  
13 Jessica Valenzuela Santamaria (220934)

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

DATED: May 19, 2016

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Honorable J.  
United States

