

Benjamin Heikali SBN 307466
FARUQI & FARUQI, LLP
10866 Wilshire Boulevard, Suite 1470
Los Angeles, CA 90024
Telephone: 424-256-2884
Facsimile: 424-256-2885
E-mail: brohr@faruqilaw.com

Nadeem Faruqi (*pro hac vice*)
Richard W. Gonnello (*pro hac vice*)
Katherine M. Lenahan (*pro hac vice*)
Sherief Morsy (*pro hac vice*)
FARUQI & FARUQI, LLP
685 Third Ave., 26th Floor
New York, NY 10017
Telephone: 212-983-9330
Facsimile: 212-983-9331
E-mail: nfaruqi@faruqilaw.com
rgonnello@faruqilaw.com
klenahan@faruqilaw.com
smorsy@faruqilaw.com

Attorneys for Lead Plaintiff Joseph Tarzia

Additional counsel on signature page

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOSEPH F. MARKETTE, on Behalf of
Himself and All Others Similarly Situated,

Plaintiff,

v.

XOMA CORPORATION, JOHN W.
VARIAN, and PAUL D. RUBIN, et. al.,
Defendants.

Case No. 15-CV-3425 (HSG)

**STIPULATION AND ORDER OF
DISMISSAL PURSUANT TO FEDERAL
RULE OF CIVIL PROCEDURE
41(a)(1)(A)(ii)**

CLASS ACTION

1 WHEREAS, on July 24, 2015, Joseph F. Markette filed the above-captioned action on
2 behalf of himself and the public stockholders of XOMA Corporation (“XOMA”) against XOMA,
3 John W. Varian, and Paul D. Rubin (ECF No. 1);

4 WHEREAS, on September 22, 2015, plaintiff Joseph Tarzia filed a Motion for
5 Appointment as Lead Plaintiff and Approval of Faruqi & Faruqi LLP as Lead Counsel (ECF No.
6 11);

7 WHEREAS, on May 13, 2016, the Court appointed Joseph Tarzia as Lead Plaintiff and
8 approved Lead Plaintiff’s selection of Faruqi & Faruqi LLP as Lead Counsel (ECF No. 77);

9 WHEREAS, on July 8, 2016, Plaintiff filed an Amended Class Action Complaint (ECF No.
10 87), adding Kelvin Neu as a defendant (collectively with XOMA, Mr. Varian, and Dr. Rubin
11 “Defendants,” and together with the Plaintiff, the “Parties”);

12 WHEREAS, no class has been certified;

13 WHEREAS, on September 28, 2017, the Court granted Defendants’ Motion to Dismiss the
14 Amended Class Action Complaint without prejudice and entered an order requiring Plaintiff to file
15 and serve an amended class action complaint by October 26, 2017 (ECF No. 113);

16 WHEREAS, after conducting a thorough investigation, Plaintiff has decided not to file an
17 amended class action complaint and to voluntarily dismiss the above-captioned action, with
18 prejudice as to Plaintiff and his individual claims and without prejudice to the unnamed class
19 members, pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure;

20 WHEREAS, no party asserts or contends that any of the Parties or their respective counsel
21 have at any time failed to comply with Rule 11 of the Federal Rules of Civil Procedure;

22 WHEREAS, the Parties agree that each Party shall bear its own costs, attorneys’ fees, and
23 expenses and that no costs, sanctions, claims, or attorneys’ fees arising in or from this action will
24 be pursued by any of the Parties.

1 THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the
2 Parties, subject to the Court's approval, as follows:

- 3 1. Plaintiff voluntarily dismisses the above-captioned action with prejudice as to his
4 individual claims and without prejudice as to the unnamed class members pursuant to
5 Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure;
- 6 2. None of the Parties or their respective counsel have at any time failed to comply with
7 Rule 11 of the Federal Rules of Civil Procedure; and
- 8 3. The Parties shall each bear their own costs, attorneys' fees, and expenses and that no
9 costs, sanctions, claims, or attorneys' fees arising in or from this action will be pursued
10 by any of the parties.

11 Dated: October 24, 2017

FARUQI & FARUQI LLP

By: /s/ Richard W. Gonnello
Richard W. Gonnello (pro hac vice)

685 Third Ave., 26th Floor
New York, NY 10017
Telephone: 212-983-9330
Facsimile: 212-983-9331
Email: rgonnello@faruqilaw.com

Attorneys for Lead Plaintiff Joseph Tarzia

18 Dated: October 24, 2017

COOLEY LLP

By: /s/ Jessica Valenzuela Santamaria
Jessica Valenzuela Santamaria (SBN 220934)

John C. Dwyer
Jessica Valenzuela Santamaria
Jessie Simpson Lagoy
Brett De Jarnette
3175 Hanover Street
Palo Alto, CA 94304
Telephone: (650) 843-5000
Facsimile: (650) 849-7400
Email: jvs@cooley.com

Attorneys for Defendants XOMA Corporation,
John W. Varian, Paul D. Rubin, and Kelvin
Neu

ATTESTATION

I, Richard W. Gonnello, hereby attest that the other signatories listed, on whose behalf this
filing is submitted, concur in the filing's content and have authorized the filing.

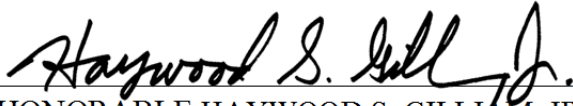
Dated: October 24, 2017

/s/ Richard W. Gonnello
Richard W. Gonnello

* * *

PURSUANT TO THE STIPULATION, IT IS SO ORDERED.

Date: October 25, 2017


HONORABLE HAYWOOD S. GILLIAM, JR.
UNITED STATES DISTRICT JUDGE