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KELVIN M. NEU, PATRICK J. SCANNON,
JOHN VARIAN, TIMOTHY P. WALBERT,
PAUL D. RUBIN AND JACK L. WYSZOMIERSKI
and Nominal Defendant XOMA CORPORATION

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

DEBORAH A. FIESER, derivatively on behalf of XOMA CORPORATION,

Plaintiff,

v.

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

Defendants.

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

**CORRECTED STIPULATION AND ~~[PROPOSED]~~ ORDER TO EXTEND TIME FOR DEFENDANTS TO RESPOND TO COMPLAINT AND RESCHEDULE CASE MANAGEMENT CONFERENCE**

Judge: Honorable Haywood S. Gilliam

Pursuant to Civil Local Rules 6-1, 6-2, and 7-12 Plaintiff Deborah A. Fieser ("Plaintiff") and Defendants W. Denman Van Ness, William K. Bowes, Jr., Peter Barton Hutt, Joseph M. Limber, Kelvin M. Neu, Patrick J. Scannon, John Varian, Timothy P. Walbert, Paul D. Rubin, Jack L. Wyszomierski, and Nominal Defendant XOMA Corporation (collectively, "Defendants"), by and through their respective counsel, hereby agree and stipulate that good cause exists to request an order from the Court extending Defendants' deadline to respond to the Complaint until May 20, 2016 and rescheduling the initial Case Management Conference currently set in this action for May 10, 2016 to June 28, 2016, and to adjust accordingly the related deadlines set forth therein.

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

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

WHEREAS, Plaintiff Jeffrey Csoka filed a similar shareholder derivative action the United States Court for the Northern District of California, captioned, *Csoka v. Varian, et al.*, Case No. 3:15-cv-05429-HSG on November 25, 2015 (the "*Csoka* Derivative Action");

WHEREAS, on January 11, 2016, Magistrate Judge Kandis A. Westmore entered an order extending Defendants' time to respond to the complaint in this action from January 19, 2016 to February 19, 2016 and rescheduling the case management conference to March 22, 2016;

WHEREAS, on January 12, 2016, Judge Westmore referred this action to this Court to determine whether it should be related to the *Markette* Class Action;

WHEREAS, on January 25, 2016, this Court entered an order relating this action to the *Markette* Class Action, and reassigning it to Judge Haywood S. Gilliam;

WHEREAS, on February 8, 2016, this Court entered an order extending Defendants' time to respond to the complaint from February 19, 2016 to April 4, 2016 and rescheduling the Case Management Conference to May 10, 2016;

WHEREAS, on March 11, 2016, the court in the *Markette* Class Action entered an order relating the *Csoka* Derivative Action to the *Markette* Class Action, and reassigning it to Judge Haywood S. Gilliam;

WHEREAS, in an effort to avoid duplication of effort and maximize judicial economy, the parties have been discussing various case management procedures, including the consolidation of this action with the *Csoka* Derivative Action and a potential stay of this action pending further developments in the *Markette* Class Action, but have yet to reach agreement;

WHEREAS, in order to conserve party and Court resources, Plaintiff and Defendants agree to extend Defendants' deadline to respond to the complaint in this action to May 20, 2016 to provide the parties with additional time to reach agreement regarding case management procedures, including the consolidation of this action with the *Csoka* Derivative Action and a potential stay of this action pending further developments in the *Markette* Class Action;

WHEREAS Plaintiff and Defendants further agree that the initial Case Management Conference should be rescheduled for June 28, 2016 and that all associated deadlines (including ADR deadlines) be rescheduled accordingly.

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

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

1. To avoid duplicative efforts and promote judicial economy, Defendants shall have no obligation to respond to the complaint in this action until May 20, 2016.

2. The scheduled initial Case Management Conference will be rescheduled to June

28, 2016 and all related deadlines (including ADR deadlines) will be adjusted accordingly.

IT IS SO STIPULATED.

Dated: April 4, 2016

COOLEY LLP

*/s/ Jessica Valenzuela Santamaria*
Jessica Valenzuela Santamaria (220934)

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

Dated: April 4, 2016

GREEN & NOBLIN, P.C.

And

FEDERMAN & SHERWOOD
WILLIAM B. FEDERMAN

*/s/ Robert S. Green*
Robert S. Green (136183)

Attorneys for Plaintiff DEBORAH A. FIESER

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

DATED: 4/21/16

Kandis Westmore
KANDIS A. WESTMORE
United States Magistrate Judge