

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
BUSINESS LITIGATION SESSION

JOSEPH CIMA, derivatively and on behalf of
OVASCIENCE, INC.

Plaintiff,

v.

MICHELLE DIPP, JEFFREY YOUNG,
RICHARD H. ALDRICH, MARY FISHER,
MARC KOZIN, STEPHEN KRAUS, THOMAS
MALLEY, HARALD F. STOCK, JOHN HOWE,
and JOHN SEXTON,

Defendants,

and

OVASCIENCE, INC.,

Nominal Defendant.

CIVIL ACTION NO. 2016-3443-BLSI

STIPULATION OF SETTLEMENT

This Stipulation of Settlement (the “Stipulation”) dated March 20, 2023, is made and entered into by the following Parties (as defined herein), each by and through their respective counsel: (1) Plaintiff Joseph Cima (“Cima”) (“Plaintiff”) in the above-captioned stockholder derivative action (the “Action”), and (2) Shuli Chiu (“Chiu”) and Amanda Kim (“Kim”), plaintiffs in Case No. 1:17-cv-11382 (“Federal Plaintiffs”) pending in the United States District Court for the District of Massachusetts (the “Federal Action,” and together with the Action, the “Derivative Actions”, and collectively with Plaintiff Cima, “Plaintiffs”); (3) individual defendants Michelle Dipp, Jeffrey Young, Richard H. Aldrich, Mary Fisher, Marc Kozin,

Stephen Kraus, Thomas Malley, Harald F. Stock, John Howe, and John Sexton and Jeffrey D. Cappello (the “Individual Defendants”); and (4) nominal defendant OvaScience, Inc., now known as Tempest Therapeutics, Inc. (“OvaScience” or the “Company” and together with the Individual Defendants, “Defendants”) (“Parties” refers collectively to Defendants and Plaintiffs).¹

This Stipulation, subject to court approval, is intended to fully, finally, and forever resolve, discharge, and settle any and all Released Claims (as defined herein), upon the terms and subject to the conditions set forth herein.

I. BACKGROUND OF THE DERIVATIVE ACTIONS AND THE SETTLEMENT

A. Factual Background and Plaintiffs’ Claims

The Derivative Actions are stockholder derivative actions brought in the right, and for the benefit, of the Company against certain of its officers and directors, seeking to remedy Defendants’ alleged breach of fiduciary duties and unjust enrichment that occurred beginning on or about January 8, 2015 and, which Plaintiffs allege, caused substantial harm to the Company. Defendants have denied and continue to deny each and every claim and contention alleged by Plaintiffs in the Derivative Actions. The Individual Defendants have expressly denied and continue to deny all charges of wrongdoing or liability against them arising out of any of the conduct, statements, acts, or omissions alleged, or that could have been alleged, in the Derivative Actions. Nonetheless, Defendants have concluded that it is desirable for the Derivative Actions to be fully and finally settled in the matter and upon the terms and conditions set forth in this Stipulation.

¹ Although only filed in the Action, this Stipulation also resolves the Federal Action. On the Effective Date (defined herein), the parties in the Federal Action shall stipulate to voluntarily dismiss the case with prejudice within five (5) business days thereafter.

At the time in issue, OvaScience claimed to have discovered a therapy that increases live birth rates from in vitro fertilization (“IVF”) by extracting mitochondria (a substance in egg cells which is generally viewed as the energy source of the egg) from egg precursor cells (immature egg cells found in the protective outer layer of a woman’s own ovaries), and injecting the same into the mature egg being utilized in the IVF process. In January of 2015 and thereafter, this process, the AUGMENTSM treatment (“AUGMENT”), was the Company’s sole marketable product.

The theory that such injection of additional mitochondria improves egg health and IVF success rates is difficult to test and prove. It was also difficult to test the efficacy of the AUGMENT treatment. Nonetheless, and as detailed herein, the Company allegedly repeatedly communicated to investors that the efficacy of AUGMENT had been scientifically validated, which the Derivative Actions alleged was untrue. Further, on March 16, 2015, the Company represented to investors that it was on target to have 1,000 active AUGMENT treatment cycles in process by the end of fiscal 2015, which the Derivative Actions also alleged was untrue and known by the Defendants to be untrue.

Throughout the time period in issue, the Derivative Actions allege that the Defendants caused the Company to issue false and misleading statements and/or failed to disclose, among other things, that: (a) the science behind AUGMENT had not been scientifically validated; (b) the Company was unable to achieve the purported success rates it claimed; (c) the real reasons why the Company moved its studies outside of the United States; (d) the Company had not chosen to undertake its studies outside of the United States, but was forced to as it did not want to meet stringent and expensive federal regulations; (e) that at all relevant times, the Company’s profitability and prospects were false and misleading; and (f) the Company lacked adequate

internal controls over its publicly issued statements and financial reporting.

Plaintiffs allege in the Derivative Actions that the Individual Defendants breached their fiduciary duties by personally making and/or causing the Company to make to the investing public the aforesaid series of materially false and misleading statements and omissions about the Company's business, operations, and prospects and caused the Company to fail to maintain an adequate system of internal controls.

B. Procedural History

i. The Action

On November 9, 2016, Plaintiff Cima filed a derivative action on behalf of nominal defendant OvaScience, Inc., against Individual Defendants Michelle Dipp, Jeffrey E. Young, Richard H. Aldrich, Jeffrey D. Capello, Mary Fisher, Marc Kozin, Thomas Malley, Harald F. Stock, John Howe, and John Sexton, alleging breach of fiduciary duty and various state law claims in this Court.

Some of the Defendants in the Derivative Actions are also defendants in three securities class actions filed against the Company arising from the AUGMENT treatment: one case filed in October 2015 in this Court, captioned *In re OvaScience Inc. Stockholder Litigation*, C.A. No. 15-3087-BLS; and two cases filed in the United States District Court for the District of Massachusetts, captioned *Dahhan v. OvaScience Inc, et al.*, 1:17-cv-10511-IT and *Westmoreland County Employee Retirement System v. OvaScience Inc, et al.*, 1:17-cv-12312-IT, filed on March 24, 2017, and November 22, 2017, respectively (collectively, the "Securities Class Actions").

On February 16, 2017, the parties to this Action entered into a stipulation to stay this Action, which this Court granted on February 22, 2017 (the "February 2017 Stipulation").

On December 5, 2017, Plaintiff filed a Notice that Stay is Lifted because the Federal Action was not stayed;

On December 13, 2017, after a status conference, the Court ordered Plaintiff to file an Amended Complaint by December 31, 2017, and Defendants to file a responsive pleading by January 31, 2018.

Plaintiff filed an Amended Complaint on January 2, 2018.

On January 18, 2018, the parties entered into another Stipulation staying this Action until final judgment was entered in all of the Securities Class Actions, which was granted on January 25, 2018.

Per the Court's Order, Plaintiff filed a Joint Status Report on December 21, 2018. On December 27, 2018, a status conference was held before the Hon. Brian A. Davis and on December 31, 2018, the Joint Status Report was endorsed and the stay was extended until June 7, 2019.

On June 7, 2019, a Conference to Review the Status of this Action was held before Mitchell H. Kaplan.

On September 6, 2019, Plaintiff submitted a Joint Status Report. An Endorsement on Submission of Status Report was entered on September 12, 2019, ordering the Action to remain stayed until at least March 16, 2020 and ordering the parties to file a further joint status report on or before March 2, 2020.

On March 2, 2020, Plaintiff submitted a Joint Status Report. An Endorsement on Submission of Status Report was entered on March 5, 2020, ordering the Action to remain stayed and ordering the parties to file a further joint status report on or before June 30, 2020.

On June 30, 2020, Plaintiff submitted a Joint Status Report.

On January 7, 2021, Plaintiff submitted a Joint Status Report.

On April 30, 2021, Defendants filed a Joint Status Report and a conference to review the status of the Action was held by Hon. Karen Green.

On August 30, 2021, Plaintiff submitted a Joint Status Report. An Endorsement on Submission of Status Report was entered on September 17, 2021, ordering the case to remain stayed until at least March 18, 2022 and ordering the parties to file a further joint status report on or before February 25, 2022.

On July 6, 2022, a conference was held before the Hon. Peter B. Krupp.

On September 13, 2022, Plaintiff filed a Joint Motion for Stay Pending Settlement.

On September 16, 2022, the Court entered a NISI order, ordering that “an AGREEMENT FOR JUDGMENT or STIPULATION OF DISMISSAL, be filed in the Clerk’s office by 12/22/2022.”

On December 12, 2022, Plaintiff filed a Joint Status Report Regarding Settlement and Joint Motion to Stay Pending Settlement.

On December 14, 2022, the Court entered an order denying the request to vacate the NISI order, and extending the deadline to file an AGREEMENT FOR JUDGMENT or STIPULATION OF DISMISSAL until February 27, 2022.

On February 17, 2023, the Court entered an order extending the NISI period until March 22, 2023 and directing that if a Stipulation of Dismissal was not filed beforehand, then a hearing would be conducted on March 23, 2023 for the parties to show cause why the case should not be dismissed.

ii. The Federal Action

On July 27, 2017, Plaintiffs filed a derivative Complaint asserting claims against Defendants.

On September 11, 2017, the Court entered the Stipulation and Order Regarding Time to Move, Plead, or Otherwise Respond to the Federal Derivative Complaint.

On September 15, 2017, Defendants filed a Joint Motion to Continue Scheduling Conference, which was granted on September 18, 2017.

On September 26, 2017, Plaintiffs filed an Amended Complaint.

On October 27, 2017, Defendants filed their Motion to Dismiss. Plaintiffs filed their Opposition on December 11, 2017. Defendants' Reply was filed on March 29, 2018.

On April 5, 2018, a Hearing and oral argument was held on Defendants' Motion to Dismiss. On April 13, 2018, an Order was entered allowing Defendants' Motion to Dismiss Plaintiffs' Amended Complaint.

On April 25, 2018, Plaintiffs filed a Motion for Leave to File a Second Amended Complaint and an electronic Order allowing Plaintiffs to file a Second Amended Complaint was entered on April 27, 2018.

Plaintiffs filed their Second Amended Complaint on April 30, 2018.

On May 23, 2018, Judge Indira Talwani issued an electronic Order staying the Federal Action pending the resolution of the two related Securities Class Actions pending in federal court, *Dahhan v. OvaScience Inc., et al.*, Case No. 17-cv-10511-IT, and *Westmoreland County Employee Retirement System v. OvaScience Inc., et al.*, Case No.17-cv-12312-IT.

On January 27, 2023, Judge Indira Talwani issued an electronic Order lifting the stay and set February 17, 2023 as the deadline for Defendants to respond to Plaintiffs' Second Amended Complaint and set February 24, 2023 as the deadline for the parties in the Federal Action to file an amended Joint Statement pursuant to Federal Rule of Civil Procedure 26(f) and Local Rule 16.1(d).

On January 30, 2023, Judge Indira Talwani issued an electronic Order setting a scheduling conference for February 28, 2023. That scheduling conference has been cancelled.

On February 14, 2023, the parties in the Federal Action filed a Joint Status Report informing Judge Indira Talwani of the settlement in principle of the Derivative Actions and requesting an extension of ninety (90) days to consummate the settlement.

On February 16, 2023, Judge Indira Talwani issued an electronic Order granting an extension of ninety (90) days to consummate the settlement and requesting notice be filed in the Federal Action when final approval of the Settlement was granted in the Action.

iii. The Securities Class Actions

a) *Heather Carlson, vs. OvaScience Inc.*, Case No. 1584CV03087, (MA. Sup. Court)

On October 9, 2015, Plaintiff Heather Carlson filed a securities class action against the Company and other Defendants. On February 15, 2018, Plaintiff filed a Motion for Voluntary Dismissal which was endorsed on April 6, 2018 by Judge Kenneth W. Salinger. A Final Judgment was entered on April 18, 2018.

b) *Dahhan v. OvaScience Inc., et al.*, Case No. 17-cv-10511-IT (D. Mass.) (“Dahhan”)

On March 24, 2017, Plaintiff Fadi Dahhan filed a securities class action against Defendants OvaScience, Inc., Michelle Dipp, Jeffrey E. Young, Longwood Fund, L.P., Longwood Fund GP, LLC., and Richard Aldrich.

On December 10, 2019 a Second Amended Complaint was filed.

On March 4, 2022 Plaintiff filed a Motion for Preliminary Approval of Settlement, which was granted on April 1, 2022.

A Motion for Final Approval of Settlement was filed on June 21, 2022, and a Hearing held on July 26, 2022.

On December 20, 2022, the court entered an Order and Judgment Approving Class Action Settlement, an Order Approving Plan of Allocation, and an Order Awarding Attorneys' Fees and Payment of Litigation Expenses, Charges and Costs.

c) *Westmoreland County Employee Retirement System v. OvaScience Inc., et al.*, Case No.17-cv-12312 (D. Mass.)

On November 22, 2017 Plaintiff Westmoreland County Employees Retirement System filed a securities class action against Defendants OvaScience, Inc., Michelle Dipp, Jeffrey E. Young, Richard H. Aldrich, Jeffrey D. Capello, Mary Fisher, Marc Kozin, Stephen Kraus, Thomas Malley, Harald F. Stock, J.P. Morgan Securities LLC, Credit Suisse Securities (USA) LLC., and Leerink Partners LLC.

On August 24, 2018, Plaintiff filed a Stipulation of Dismissal and Proposed Order Voluntarily Dismissing Action without Prejudice, which was granted on August 27, 2018.

The action was marked closed on August 28, 2018.

C. Settlement Negotiations

In approximately December of 2017, the Plaintiffs in this Action and the Federal Action agree to work cooperatively together for the good of the Company. On September 13, 2018, the Plaintiffs submitted a detailed settlement demand with a series of proposed corporate governance reforms to the Defendants for consideration as a possible means to resolve the derivative claims asserted by Plaintiffs. This settlement overture did not bear fruit.

Thereafter, once the related *Dahhan* Securities Action settled in principle, on or about April 25, 2022, the Plaintiffs prepared a new settlement demand with a new set of corporate

governance proposals as a way to settle and resolve the claims asserted by the Plaintiffs in the Derivative Actions.

Thereafter, Plaintiffs' Counsel and Defendants' Counsel negotiated the terms of a proposed settlement over the course of several months.

Eventually on or about September 12, 2022, the Parties reached an agreement in principle on the terms of a set of proposed corporate governance reforms and other settlement related matters. The Parties then drafted and on September 12, 2022 executed, a Settlement Term Sheet setting forth in detail the proposed corporate governance reforms to be enacted by the Company. Said Reforms are attached hereto as Exhibit A.

After reaching agreement on the terms of the corporate governance reforms to be enacted for the benefit of the Company, the Parties then began negotiating an amount of money to be paid to Plaintiff's Counsel to compensate them for the benefit achieved by them on behalf of the Company (the "Fee and Expense Award"). On February 3, 2022, the Parties reached agreement that the Fee and Expense Award would be \$450,000.00. From that amount, Plaintiffs' Counsel will also petition this Court, to grant from the Fee and Expense Award, \$1,500.00 in case contribution awards to each of the three named Plaintiffs in recognition of their support and activities in producing the settlement on behalf of the Company. The Fee and Expense Award is designed, subject to this Court's approval, to compensate Plaintiffs' Counsel for the time, labor and out-of-pocket expenses incurred by Plaintiffs' Counsel in producing the settlement and the corporate governance reforms obtained for the Company.

All of the negotiations between the Parties were conducted by their counsel at arms'-length, were hard-fought, and without any collusion. Moreover, the proposed Fee and Expense

Award is to be paid, not out of the Company's coffers, but by the Company's insurers who had every incentive to keep the amount of the Fee and Expense Award as low as possible.

After an agreement was reached as to the amount of the negotiated Fee and Expense Award, the Parties drafted and executed, on March 20, 2023, this Stipulation with its supporting exhibits.

Pursuant to the Settlement, within sixty (60) days of issuance of final court orders approving the settlement of both Derivative Actions, the Board shall adopt resolutions, as necessary, to ensure the adoption, implementation, and maintenance of the corporate governance enhancements set forth below, which shall remain in effect for no less than five (5) years.

Also pursuant to the Settlement, the Company acknowledges and agrees that the filing, pendency, and settlement of the Derivative Actions was the primary cause of the Company's decision to adopt, implement, and maintain the corporate governance enhancements. The Company also acknowledges and agrees that the corporate governance enhancements below confer substantial benefits to the Company and its stockholders.

II. PLAINTIFFS' CLAIMS AND THE BENEFITS OF SETTLEMENT

Plaintiffs believe that their derivative claims have substantial merit, and Plaintiffs' entry into this Stipulation is not intended to be and shall not be construed as an admission or concession concerning the relative strength or merit of the claims alleged in the Derivative Actions. However, Plaintiffs and Plaintiffs' Counsel (defined herein) recognize and acknowledge the significant risk, expense, and length of continued proceedings necessary to prosecute the derivative claims against the Individual Defendants through trial and possible appeals. Plaintiffs' Counsel also have taken into account the uncertain outcome and the risk of any litigation, especially in complex cases such as those comprising the Derivative Actions, as

well as the difficulties and delays inherent in such litigation. Plaintiffs' Counsel are also mindful of the inherent problems of establishing standing in derivative litigation, and the possible defenses to the claims alleged in the Derivative Actions.

Plaintiffs' Counsel have conducted extensive investigation and analysis, including, *inter alia*: (i) reviewing and analyzing Company press releases, public statements, filings with the U.S. Securities and Exchange Commission ("SEC"); (ii) reviewing and analyzing securities analysts' reports and advisories and media reports about the Company; (iii) reviewing and analyzing the pleadings contained in the Securities Class Actions; (iv) researching the applicable law with respect to the claims alleged and the potential defenses thereto; (v) preparing and filing the complaints and amended complaints in the Derivative Actions; (vi) researching and evaluating factual and legal issues relevant to the claims; (vii) drafting an opposition to the Defendants' motion to dismiss in the Federal Action and attending oral argument on said motion; (viii) engaging in settlement negotiations with Defendants' Counsel regarding the specific facts, and perceived strengths and weaknesses of the Derivative Actions, and other issues in an effort to facilitate negotiations; (ix) conducting damages analyses and research into the Company's corporate governance structure in connection with settlement efforts; (x) preparing several comprehensive written settlement demands and modified demands over the course of the Parties' settlement negotiations; and (xi) negotiating the material terms of the settlement, and negotiating and drafting the Term Sheet and this comprehensive Stipulation.

Based on Plaintiffs' Counsel's thorough review and analysis of the relevant facts, allegations, defenses, and controlling legal principles, Plaintiffs' Counsel believe that the Settlement set forth in this Stipulation is fair, reasonable, and adequate, and confers substantial benefits upon the Company. Based upon Plaintiffs' Counsel's evaluation, Plaintiffs have

determined that the Settlement is in the best interests of the Company and have agreed to settle the Derivative Actions upon the terms and subject to the conditions set forth herein.

III. DEFENDANTS' DENIALS OF WRONGDOING AND LIABILITY

Defendants have denied and continue to deny each and every claim and contention alleged by Plaintiffs in the Derivative Actions. The Individual Defendants have expressly denied and continue to deny all charges of wrongdoing or liability against them arising out of any of the conduct, statements, acts, or omissions alleged, or that could have been alleged, in the Derivative Actions. Nonetheless, Defendants have concluded that it is desirable for the Derivative Actions to be fully and finally settled in the matter and upon the terms and conditions set forth in this Stipulation. Defendants have also taken into account the uncertainty and risks inherent in any litigation, especially in complex cases like this. Defendants have, therefore, determined that it is in the best interests of the Company for the Derivative Actions to be settled in the manner and upon the terms and conditions set forth in this Stipulation.

Neither this Stipulation, nor any of its terms or provisions, nor entry of the Judgment (as defined herein) nor any document or exhibit referred to or attached to this Stipulation, nor any action taken to carry out this Stipulation is or may be construed or used as evidence of the validity or infirmity of any of the Released Claims or an admission by or against any Defendant of any fault, wrongdoing, or concession of liability whatsoever.

IV. TERMS OF STIPULATION AND AGREEMENT OF SETTLEMENT

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the undersigned counsel for the Parties herein, in consideration of the benefits flowing to the Parties from the Settlement, and subject to the approval of the Court, that the Released Claims shall be finally and fully compromised, settled, and released, and the Derivative Actions shall be

dismissed with prejudice and with full preclusive effect as to all Parties, upon and subject to the terms and conditions of this Stipulation, as set forth below.

1. DEFINITIONS

As used in this Stipulation, the following terms have the meanings specified below:

1.1 “Action” means the derivative action pending in this Court, captioned *Joseph Cima derivatively on Behalf of OvaScience Inc vs. Dipp, M.D.*, Civil Action No. 1684CV03443.

1.2 “Board” means the Company’s Board of Directors.

1.3 “Claims” means collectively, any and all actions, claims, demands, rights, liabilities, losses, obligations, duties, damages, costs, debts, expenses, interest, penalties, sanctions, fees, attorneys’ fees, potential actions, causes of action, suits, judgments, defenses, counterclaims, offsets, decrees, matters, issues, and controversies of any kind, nature, or description whatsoever, whether direct or derivative, known or unknown, disclosed or undisclosed, accrued or unaccrued, apparent or not apparent, foreseen or unforeseen, matured or not matured, suspected or unsuspected, liquidated or not liquidated, fixed or contingent, held at any point from the beginning of time to the date of the Stipulation’s execution.

1.4 “Court” means the Superior Court Department, Business Litigation Session, Suffolk County, Commonwealth of Massachusetts.

1.5 “Current Company Stockholders” means any Person or Persons who are record or beneficial owners of Company stock as of the date of this Stipulation, and who continue to own Company common stock as of the date of the Settlement Hearing, and their successors-in-interest, excluding the Individual Defendants, the officers and directors of the Company, members of their immediate families, and their legal representatives, heirs, successors, or

assigns, and any entity in which any of the Individual Defendants has or has had a controlling interest.

1.6 “Defendants” means the Individual Defendants and nominal defendant, OvaScience.

1.7 “Defendants’ Counsel” means Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

1.8 “Derivative Actions” means the Action and the Federal Action.

1.9 “Effective Date” means the date by which all of the events and conditions specified in Section IV (§6.1) have been met and have occurred.

1.10 “Federal Action” means the stockholder derivative action pending in federal court captioned, *Chiu, et al., derivatively on Behalf of OvaScience Inc vs. Dipp, M.D., et al.*, Case No. 1:17-cv-11382 (D. Mass.).

1.11 “Federal Plaintiffs” means plaintiffs Chiu and Kim in the Federal Action.

1.12 “Fee and Expense Award” means the terms of the sum to be paid to Plaintiffs’ Counsel for their attorneys’ fees and expenses, as detailed in Section IV, §§4.1, 4.2 of this Stipulation, subject to approval by the Court.

1.13 “Final” means when the last of the following, with respect to the Judgment approving this Stipulation, substantially in the form of Exhibit D, attached hereto, shall have occurred: (1) the expiration of the time to file a notice of appeal from the Judgment without a notice of appeal having been filed; or (2) if an appeal has been filed, the court of appeals has either affirmed the Judgment or dismissed that appeal and the time for any reconsideration or further appellate review has passed; or (3) if a higher court has granted further appellate review, that court has either affirmed the underlying Judgment or affirmed the court of appeal’s

decision affirming the Judgment or dismissing the appeal. For purposes of this paragraph, an “appeal” shall not include any appeal that concerns only the issue of attorneys’ fees and expenses or the payment of service awards to Plaintiffs. Any proceeding or order, or any appeal or petition for review pertaining solely to the application for attorneys’ fees, costs, or expenses, and/or service awards to Plaintiffs shall not in any way delay or preclude the Judgment from becoming Final.

1.14 “Individual Defendants” means Michelle Dipp, Jeffrey Young, Richard H. Aldrich, Mary Fisher, Marc Kozin, Stephen Kraus, Thomas Malley, Harald F. Stock, John Howe, John Sexton, and Jeffrey D. Cappello.

1.15 “Judgment” means the [Proposed] Order and Final Judgment entered by the Court that dismisses the Action pursuant to the Settlement, substantially in the form of Exhibit D attached hereto.

1.16 “Notice” means the Notice of Pendency and Proposed Settlement of Stockholder Derivative Actions, substantially in the form of Exhibit C attached hereto.

1.17 “OvaScience, Inc.” means the Company under all of its corporate names, including its current corporate name, Tempest Therapeutics Inc., and its affiliates, subsidiaries, predecessors, successors, and assigns.

1.18 “Parties” means Plaintiffs and Defendants.

1.19 “Person” means any natural person, individual, corporation, partnership, limited partnership, limited liability partnership, limited liability company, association, joint venture, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, any business or legal entity, professional

corporation, and any spouse, heir, legatee, executor, administrator, predecessor, successor, representative, or assign of any of the foregoing.

1.20 “Plaintiffs” means plaintiff Cima in this Action and plaintiffs Chiu and Kim in the Federal Action.

1.21 “Plaintiffs’ Counsel” means The Brown Law Firm, P.C., The Rosen Law Firm, P.A., and Gainey McKenna & Egleston.

1.22 “Preliminary Approval Order” means the Preliminary Approval Order entered by the Court that preliminarily approves the Settlement, authorizes the form and manner of providing notice of the Settlement to Current Company Stockholders, and sets a date for the Settlement Hearing, substantially in the form of Exhibit B attached hereto.

1.23 “Reforms” means the corporate governance reforms set forth in Exhibit A attached hereto, which the Company shall adopt, implement, and maintain, pursuant to and in accordance with this Stipulation.

1.24 “Related Persons” means, with respect to any Person, all of such Person’s current and former parents, subsidiaries, divisions, departments, affiliates, stockholders, officers, directors, employees, agents, attorneys, auditors, accountants, underwriters, advisors, insurers, partners, control persons, family members (in their capacities as such), representatives, predecessors, successors, and assigns; and all heirs, executors, trustees, representatives, and administrators of any of the foregoing.

1.25 “Released Claims” shall collectively mean: (i) any and all claims for relief (including Unknown Claims, as defined in ¶1.30 below), actions, suits, claims, debts, disputes, demands, rights, liabilities, sums of money due, judgments, matters, issues, charges of any kind (including, but not limited to, any claims for interest, attorneys’ fees, expert or consulting fees,

and any other costs, expenses, amounts, or liabilities whatsoever), and claims of relief or causes of action of every nature and description whatsoever, known or unknown, whether or not concealed or hidden, asserted or unasserted, fixed or contingent, accrued or unaccrued, liquidated or unliquidated, at law or in equity, matured or unmatured, foreseen or unforeseen, whether arising under federal or state statutory or common law, or any other law, rule, or regulation, whether foreign or domestic, that have been asserted in the Derivative Actions or could have been asserted in the Derivative Actions by Plaintiffs, the Company, or by any other stockholder of the Company against each and every Defendant and the Released Persons, arising out of, relating to, or based upon the facts, transactions, matters, events, occurrences, acts, disclosures, statements, SEC filings, practices, omissions, or failures to act that were alleged or referred to in the complaints filed in the Derivative Actions; and (ii) any claims in connection with, based upon, arising out of, or relating to the Settlement, but excluding any claims to enforce the Settlement set forth in this Stipulation.

1.26 “Released Persons” means, collectively, the Company, the Individual Defendants, and their Related Persons. “Released Person” means, individually, any of the Released Persons.

1.27 “Releasing Parties” means Plaintiffs, Current Company Stockholders (solely in their capacity as Company stockholders), Plaintiffs’ Counsel, and the Company. “Releasing Party” means, individually, any of the Releasing Parties.

1.28 “Settlement” means the settlement and compromise of the derivative claims as provided for in this Stipulation.

1.29 “Settlement Hearing” means the hearing set by the Court to consider final approval of the Settlement.

1.30 “Unknown Claims” means any Released Claim(s) that any Releasing Party does not know of or suspect to exist in his, her, or its favor at the time of the Settlement of the Released Persons, including, without limitation, those claims that, if known by him, her, or it, might have affected his, her, or its settlement with and release of the Released Persons or might have affected his, her, or its decision whether to object to this Settlement. With respect to any and all Released Claims, the Parties stipulate and agree that, upon the Effective Date, the Releasing Parties shall expressly waive and relinquish, and each Current Company Stockholder shall be deemed to have and by operation of the Judgment shall have expressly waived and relinquished to the fullest extent permitted by law, the provisions, rights and benefits conferred by and under California Civil Code § 1542, and any other law of the United States or any state or territory of the United States, or principle of common law, which is similar, comparable or equivalent to California Civil Code § 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

The Releasing Parties acknowledge that they and Current Company Stockholders may hereafter discover facts in addition to or different from those now known or believed to be true by them, with respect to the subject matter of the Released Claims, but it is the intention of the Parties that the Releasing Parties, and all Current Company Stockholders shall be deemed to and by operation of the Judgment shall completely, fully, finally, and forever compromise, settle, release, discharge, and extinguish any and all Released Claims, known or unknown, suspected or unsuspected, contingent or absolute, accrued or unaccrued, apparent or unapparent, which do now exist, or heretofore existed, or may hereafter exist, upon any theory of law or equity now

existing or coming into existence in the future, and without regard to the subsequent discovery of additional or different facts. The Parties acknowledge that the foregoing waiver was separately bargained for and is a key element of the Stipulation of which this release is a part.

2. TERMS OF THE SETTLEMENT

2.1 As a result of the filing, pendency, and settlement of the Derivative Actions, within sixty (60) days of the date that the Court enters the Judgment, the Company, or the Board, as applicable, shall adopt resolutions, as necessary, to ensure the adoption, implementation, and maintenance of the Reforms set forth in Exhibit A hereto, which shall remain in effect for no less than five (5) years.

2.2 The Company acknowledges and agrees that the filing, pendency, and settlement of the Derivative Actions was the primary cause of the Company's decision to adopt, implement, and maintain the corporate governance enhancements. The Company also acknowledges and agrees that the Reforms confer substantial benefits to the Company and its stockholders.

3. APPROVAL AND NOTICE

3.1 Promptly after execution of this Stipulation, Plaintiff and Defendants shall submit this Stipulation together with its exhibits to the Court and shall jointly apply for entry of an order (the "Preliminary Approval Order"), substantially in the form of Exhibit B attached hereto, requesting: (i) preliminary approval of the Settlement set forth in this Stipulation; (ii) approval of the form and manner of providing notice of the Settlement to Current Company Stockholders; and (iii) a date for the Settlement Hearing.

3.2 The Company shall undertake the administrative responsibility for giving notice to Current Company Stockholders and shall be solely responsible for paying the costs and expenses related to providing notice of the Settlement to Current Company Stockholders. Within

ten (10) days after the entry of this Order, Tempest shall: (1) publish the Notice in the *Investor's Business Daily*; (2) post a copy of the Notice and the Stipulation, with its exhibits, on the Investor Relations page of the Company's website; and (3) file a Form 8-K with the SEC that announces the Settlement of the Derivative Actions and that provides a link to the Investor Relations page of the Company's website where the Notice and Stipulation with its exhibits may be viewed. The Notice shall provide a link to the Investor Relations page of Tempest's website where the Notice and Stipulation with its exhibits, may be viewed, which link shall be maintained through the date of the Settlement Hearing. The Parties believe the content and manner of the notice, as set forth in this paragraph, constitute adequate and reasonable notice to Current Company Stockholders pursuant to applicable law and due process. No later than twenty (20) days following entry of the Preliminary Approval Order, Defendants' Counsel shall file with the Court an appropriate affidavit or declaration with respect to filing, issuing, and posting of the notice of the Settlement.

3.3 Pending the Effective Date, all proceedings in the Derivative Actions shall be stayed except as otherwise provided herein.

4. ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES

4.1 After negotiating the material terms of the Settlement, the Parties, in pursuit of arms'-length negotiations, began separate negotiations regarding the attorneys' fees and expenses to be paid to Plaintiffs' Counsel.

4.2 In recognition of the substantial benefits conferred upon the Company as a result of the Reforms and Plaintiffs' and Plaintiffs' Counsel's efforts in connection with the Derivative Actions, the Individual Defendants shall cause their insurers to pay four hundred and fifty

thousand dollars (\$450,000.00) to Plaintiffs' Counsel for their attorneys' fees and costs (the "Fee and Expense Award"), subject to Court approval.

4.3 The Fee and Expense Award, or such other amount as may be awarded by the Court, shall constitute final and complete payment for Plaintiffs' attorneys' fees and expenses that have been incurred or will be incurred in connection with the Derivative Actions. Within twenty-one (21) calendar days after the date of entry of the Preliminary Approval Order, the Individual Defendants shall cause their insurers to pay or cause to be paid the Fee and Expense Award to the escrow account of The Brown Law Firm, P.C. ("Escrow Account"). Plaintiffs' Counsel shall promptly provide to Defendants' Counsel, after the date of entry of the Preliminary Approval Order, all necessary payment details to accomplish payment of the Fee and Expense Award to the Escrow Account via wire transfer or check, and an executed Form W-9.

4.4 The Fee and Expense Award, to the extent approved by the Court, shall be released to Plaintiffs' Counsel from the Escrow Account upon entry of the Judgment by the Court and an order by the Court approving the fee award, notwithstanding any potential appeals.

4.5 If the Fee and Expense Award is reduced by the Court or following any appeal, Plaintiffs' Counsel will pay the Defendants' insurers the amount by which the Fee and Expense Award was reduced within thirty (30) calendar days of such order.

4.6 In no event shall Defendants or their insurers be obligated to pay any fees or costs to Plaintiffs' Counsel in excess of the Fee and Expense Award. Defendants, including the Company, shall have no responsibility for, and no liability with respect to, the allocation of the attorneys' fees and expenses awarded or distribution of attorneys' fees and expenses from the Escrow Account.

4.7 Plaintiffs' Counsel may apply to the Court for a service award of up to one thousand five hundred dollars (\$1,500.00) for each of the three Plaintiffs ("Service Awards"), only to be paid upon Court approval, and to be paid from the Fee and Expense Award in recognition of Plaintiffs' participation and effort in the prosecution of the Derivative Actions. Defendants shall not oppose Plaintiffs' Counsel's application for the Service Awards. The failure of the Court to approve any Service Award, in whole or in part, shall have no effect on the Settlement set forth in this Stipulation.

5. RELEASES

5.1 Within five business (5) days after the Effective Date, the parties in the Federal Action will file a stipulation of dismissal with prejudice, substantially in the form of Exhibit E, attached hereto, in the Federal Action.

5.2 Upon the Effective Date, to the extent that the Plaintiffs, Plaintiffs' Counsel, and each of the Company's stockholders possess any of the Released Claims derivatively, Plaintiffs, Plaintiffs' Counsel, and each of the Company's stockholders (solely in their capacity as Company stockholders) shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever waived, released, relinquished, discharged and dismissed all Released Claims (including Unknown Claims) against the Released Persons, including any and all claims (including Unknown Claims) against the Released Persons arising out of, relating to, or in connection with the defense, Settlement, or resolution of the Derivative Actions.

5.3 Upon the Effective Date, to the extent Plaintiffs, Plaintiffs' Counsel, and each of the Company's stockholders possess any of the Released Claims derivatively, Plaintiffs, Plaintiffs' Counsel, and each of the Company's stockholders (solely in their capacity as Company stockholders) shall be forever barred, estopped, and enjoined from commencing,

instituting, or prosecuting any of the Released Claims (including Unknown Claims) or any action or other proceeding against any of the Released Persons based on the Released Claims, or any action or proceeding arising out of, relating to, or in connection with the Released Claims or the filing, prosecution, defense, settlement, or resolution of the Derivative Actions. Nothing herein shall in any way impair or restrict the rights of any Party to enforce the terms of this Stipulation.

5.4 Upon the Effective Date, the Company shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims (including Unknown Claims) against the Released Persons.

5.5 Upon the Effective Date, the Company shall be forever barred, estopped, and enjoined from commencing, instituting, or prosecuting any of the Released Claims (including Unknown Claims) or any action or other proceeding against any of the Released Persons based on the Released Claims, or any action or proceeding arising out of, relating to, or in connection with the Released Claims or the filing, prosecution, defense, settlement, or resolution of the Derivative Actions. Nothing herein shall in any way impair or restrict the rights of any Party to enforce the terms of this Stipulation.

5.6 Upon the Effective Date, each of the Released Persons shall be deemed to have fully, finally, and forever released, relinquished, and discharged Plaintiffs and their Related Persons, Plaintiffs' Counsel and their Related Persons, and the Company's stockholders (solely in their capacity as Company stockholders) and their Related Persons from all claims (including Unknown Claims), arising out of, relating to, or in connection with the institution, prosecution, assertion, settlement, or resolution of the Derivative Actions or the Released Claims. Nothing herein shall in any way impair or restrict the rights of any Party to enforce the terms of this Stipulation.

6. CONDITIONS OF SETTLEMENT; EFFECT OF DISAPPROVAL, CANCELLATION, OR TERMINATION

6.1 The Effective Date of this Stipulation shall be conditioned on the occurrence of all of the following events:

a. Court approval of the content and method of providing notice of the proposed Settlement to Current Company Stockholders, and the subsequent dissemination pursuant thereto of the notice of the proposed Settlement to Current Company Stockholders;

b. Court entry of the Judgment, in all material respects in the form set forth as Exhibit D annexed hereto, approving the Settlement and dismissing the Action with prejudice, without awarding costs to any party, except as provided herein;

c. payment of the Fee and Expense Award in accordance with Section IV (¶¶4.1-4.3);

d. The dismissal with prejudice of the Action; and

e. the passing of the date upon which the Judgment becomes Final.

6.2 If any of the conditions specified above in Section IV, ¶6.1 are not met, then this Stipulation shall be canceled and terminated subject to Section IV, ¶6.3, unless counsel for the Parties mutually agree in writing to proceed with this Stipulation.

6.3 If for any reason the Effective Date of this Stipulation does not occur or the Derivative Actions are not dismissed with prejudice, or if this Stipulation is in any way canceled, terminated or fails to become Final in accordance with its terms: (a) all Parties shall be restored to their respective positions in the Derivative Actions as of the date of this Stipulation; (b) all releases delivered in connection with this Stipulation shall be null and void, (other than those set forth in Section IV, Paragraphs 1.1-1.30, 4.3-4.5, 6.2-.6.3, 7.3, 7.6-7.16, 7.20); (c) the Fee and Expense Award paid to Plaintiffs' Counsel shall be refunded and returned to the Defendants'

insurers within thirty (30) calendar days of receiving notice from Defendants or from a court of appropriate jurisdiction; and (d) all negotiations, proceedings, documents prepared, and statements made in connection herewith shall be without prejudice to the Parties, shall not be deemed or construed to be an admission by a Party of any act, matter, or proposition, and shall not be used in any manner for any purpose in any subsequent proceeding in the Action, the Federal Action, or in any other proceeding for any purpose.

7. MISCELLANEOUS PROVISIONS

7.1 The Parties: (a) acknowledge that it is their intent to consummate this Stipulation; and (b) agree to cooperate to the extent reasonably necessary to implement the terms and conditions of this Stipulation and to effectuate and to exercise their best efforts to accomplish the foregoing terms and conditions of this Stipulation.

7.2 The Parties intend this Settlement to be a final and complete resolution of all disputes between them with respect to the Derivative Actions and Released Claims. The Settlement comprises claims that are contested and shall not be deemed an admission by any Party as to the merits of any claim, allegation, or defense. Subject to, and conditioned on, the Court's final approval of the Settlement contemplated herein, the Parties agree that each has complied fully with the applicable requirements of good faith litigation, the Derivative Actions are being settled voluntarily by the Defendants, and no Parties shall take the position that the Derivative Actions were brought or defended in bad faith or in violation of Rule 11 of the Federal Rules of Civil Procedure or its state law counterparts.

7.3 Neither this Stipulation, including the annexed exhibits, nor the Settlement, nor any act performed or document executed pursuant to or in furtherance of this Stipulation or the Settlement: (i) is or may be deemed to be or may be offered, attempted to be offered or used in

any way by the Parties or any other Person as a presumption, a concession or an admission of, or evidence of, any fault, wrongdoing, or liability of the Parties or Released Persons, or of the validity or infirmity of any Released Claims; (ii) is or may be deemed to be or may be offered, attempted to be offered or used in any way by the Parties or any other Person as a presumption, a concession, an admission, or evidence of any fault, omission, wrongdoing or liability of any of the Parties in any other actions or proceedings, whether civil, criminal, or administrative, other than to enforce the terms therein.

7.4 Plaintiffs have not assigned, encumbered or in any manner transferred in whole or in part any of the Released Claims.

7.5 Any agreements made and orders entered during the course of the Derivative Actions relating to the confidentiality of information and documents shall survive this Stipulation.

7.6 This Stipulation may be modified or amended only by a writing signed by the signatories hereto.

7.7 This Stipulation shall be deemed drafted equally by all Parties.

7.8 No representations, warranties, or inducements have been made to any of the Parties concerning this Stipulation or its exhibits other than the representations, warranties, and covenants contained and memorialized in such documents.

7.9 Each counsel or other Person executing this Stipulation or its exhibits on behalf of any of the Parties hereby warrants that such Person has the full authority to do so.

7.10 The exhibits to this Stipulation are material and integral parts hereof and are fully incorporated herein by this reference.

7.11 This Stipulation and the exhibits attached hereto constitute the entire agreement among the Parties with respect to the subject matter hereof and supersede all prior and contemporaneous oral and written agreements and discussions.

7.12 This Stipulation shall be read and interpreted according to its plain meaning and any ambiguity shall not be construed against any Party. It is expressly agreed by the Parties that the judicial rule of construction that a document should be more strictly construed against the draftsman thereof shall not apply to any provision of this Stipulation. In the event that there exists a conflict or inconsistency between the terms of this Stipulation and the terms of any exhibit hereto, the terms of this Stipulation shall prevail.

7.13 This Stipulation may be executed in one or more counterparts, including by signature transmitted electronically, by facsimile or e-mailed PDF files. Each counterpart, when so transmitted, shall be deemed to be an original, and all such counterparts together shall constitute the same instrument.

7.14 This Stipulation shall be considered to have been negotiated, executed and delivered, and to be wholly performed, in the Commonwealth of Massachusetts, and the rights and obligations of the parties to this Stipulation shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the Commonwealth of Massachusetts without giving effect to that Commonwealth's choice of law principles.

7.15 Without affecting the finality of the Judgment entered in accordance with this Stipulation, the Court shall retain jurisdiction to implement and enforce the terms of the Stipulation and the Judgment and to consider any matters or disputes arising out of or relating to the Settlement, and the Parties submit to the jurisdiction of the Court for purposes of

implementing and enforcing the Settlement embodied in the Stipulation and Judgment, and for matters or disputes arising out of or relating to the Settlement.

7.16 Pending the Effective Date or the termination of the Stipulation according to its terms, Plaintiffs and Company stockholders, and anyone who acts or purports to act on their behalf, are barred and enjoined from commencing, prosecuting, instigating, or in any way participating in the commencement or prosecution of any action asserting any Released Claims derivatively against any of the Released Persons in any court or tribunal.

7.17 Any planned, proposed, or actual sale, merger, or change-in-control of the Company shall not void this Stipulation. The Stipulation shall run to the Parties' respective successors-in-interest. In the event of a planned, proposed, or actual sale, merger, or change-in-control of the Company, the Parties shall continue to seek court approval of the Settlement expeditiously, including, but not limited to, the Settlement terms reflected in this Stipulation and the Fee and Expense Award.

7.18 In the event any proceedings by or on behalf of the Company, whether voluntary or involuntary, are initiated under any chapter of the United States Bankruptcy Code, including an act of receivership, asset seizure, or similar federal or state law action ("Bankruptcy Proceedings"), the Parties agree to use their reasonable best efforts to obtain all necessary orders, consents, releases, and approvals for effectuation of this Stipulation in a timely and expeditious manner. In the event of any Bankruptcy Proceedings by or on behalf of the Company, the Parties agree that all dates and deadlines set forth herein will be extended for such periods of time as are necessary to obtain necessary orders, consents, releases and approvals from the bankruptcy court to carry out the terms and conditions of the Stipulation.

7.19 After prior notice to the Court, but without further order of the Court, the Parties may agree to reasonable extensions of time to carry out any provisions of this Stipulation.

7.20 Any dispute arising out of or relating to the Settlement shall be resolved by the Court.

IN WITNESS WHEREOF, the Parties have caused the Stipulation to be executed by their duty authorized attorneys and dated March 20, 2023.

Dated: March 20, 2023

THE ROSEN LAW FIRM, P.A

/s/ Joshua Baker

Joshua Baker (#695561)
101 Greenwood Avenue, Suite 440
Jenkintown, PA 19046
Telephone: (215) 600-2817
Email: jbakera@rosenlegal.com

Phillip Kim
275 Madison Avenue, 40th Floor
New York, NY 10016
Telephone: (212) 686-1060
E-mail: pkim@rosenlegal.com

THE BROWN LAW FIRM, P.C.

Timothy Brown
767 Third Avenue, Suite 2501
New York, NY 10017
Telephone: (516) 922-5427
E-mail: tbrown@thebrownlawfirm.net

Co-Lead Counsel for Plaintiff Cima

Dated: March 20, 2023

GAINEY McKENNA & EGLESTON

/s/ Thomas J. McKenna

Thomas J. McKenna
501 Fifth Avenue, 19th Floor
New York, NY 10017
Telephone: (212) 983-1300
Email: tjmckenna@gme-law.com

Counsel for Federal Plaintiffs

Dated: March 20, 2023

**MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.**

/s/ John F. Sylvia
John F. Sylvia, BBO # (555581)
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*Attorneys for Individuals Defendants Michelle Dipp,
Jeffrey E. Young, Richard H. Aldrich, Jeffrey D.
Capello, Mary Fisher, Marc Kozin, Stephen Kraus,
Thomas Malley, Harald F. Stock, John Howe, John
Sexton, and Nominal Defendant OvaScience, Inc.*

EXHIBIT A

OVAS DERIVATIVE LITIGATION

Within sixty (60) days of issuance of final court orders approving the settlement of both Derivative Actions, the Board of Tempest Therapeutics (f/k/a Millendo Therapeutics, f/k/a OvaScience, Inc.) shall adopt resolutions, as necessary, to ensure the adoption, implementation, and maintenance of the corporate governance enhancements set forth below, which shall remain in effect for no less than five (5) years.

Tempest Therapeutics acknowledges and agrees that the filing, pendency, and settlement of the Derivative Actions was the primary cause of the Tempest Therapeutics' decision to adopt, implement, and maintain the corporate governance enhancements. Tempest Therapeutics also acknowledges and agrees that the corporate governance enhancements below confer substantial benefits to Tempest Therapeutics and its stockholders.

1. **Proposal:** The principal executive officer or principal financial officer (or another appropriate member of senior management) will report at least quarterly to the Board on items a-c below, to the extent any of items a-c manifest in a material way:

- a. Misconduct or noncompliance with laws and regulations;
- b. Organizational risk for misconduct or noncompliance; and
- c. Risks relating to compliance or disclosure.

2. **Proposal:** The principal executive officer or principal financial officer will provide annual and quarterly earnings releases and 10-Ks/Qs to the Audit Committee in advance of filing or release, as applicable, for their review, and will review how material risks are addressed in the applicable filing.

3. **Proposal:** Each executive officer (as such term is defined in the Securities Exchange Act of 1934) will provide reports at Audit Committee meetings as requested by the Audit Committee in advance of the meeting.

4. **Proposal:** All material press releases will be reviewed by the Company's in-house legal counsel or, in the absence of in-house counsel, outside legal counsel, prior to release.

5. **Proposal:** All employees (including as part of onboarding) will be provided with the Company's Insider Trading Policy, Related Party Transactions Policy, and Code of Conduct ("Company Policies") and shall provide written confirmation of receipt and review of the Company Policies.

6. **Proposal:** Executive officers (as such term is defined in the Securities Exchange Act of 1934) will report any material developments and risks to the Board at least quarterly.

7. **Proposal:** The Company will review and update its current management-level disclosure committee to ensure its members include at least two (2) members, including the Company's Chief Executive Officer and Chief Financial Officers (or functional equivalent), who shall have the responsibility to review the risk factors and any material disclosures in the Company's Form 10-Qs and 10-Ks in advance of each filing. The disclosure committee will meet at least four (4) times annually.

8. **Proposal:** Post the Company Policies to Company's investor website.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
BUSINESS LITIGATION SESSION

JOSEPH CIMA, derivatively and on behalf of
OVASCIENCE, INC.

Plaintiff,

v.

MICHELLE DIPP, JEFFREY YOUNG,
RICHARD H. ALDRICH, MARY FISHER,
MARC KOZIN, STEPHEN KRAUS, THOMAS
MALLEY, HARALD F. STOCK, JOHN HOWE,
and JOHN SEXTON,

Defendants,

and

OVASCIENCE, INC.

Nominal Defendant.

CIVIL ACTION NO. 2016-3443-BLSI

EXHIBIT B

[PROPOSED] PRELIMINARY APPROVAL ORDER

This matter came before the Court for a hearing on _____, 2023. Plaintiffs¹ have made an unopposed motion, pursuant to Massachusetts Rule of Civil Procedure 23.1, for an order: (i) preliminarily approving the proposed settlement (“Settlement”) of stockholder derivative claims

¹ Plaintiff Joseph Cima (“Cima”) (“Plaintiff”) in the above-captioned stockholder derivative action (the “Action”), and (2) Shuli Chiu (“Chiu”) and Amanda Kim (“Kim”), plaintiffs in Case No. 1:17-cv-11382 (“Federal Plaintiffs”) pending in the United States District Court for the District of Massachusetts (the “Federal Action,” and together with the Action, the “Derivative Actions”, and collectively with Plaintiff Cima, “Plaintiffs”);

brought on behalf of OvaScience, Inc.² (“OvaScience”), now known as Tempest Therapeutics, Inc. (“Tempest” Or The “Company”) in accordance with the Stipulation of Settlement dated March 20, 2023 (the “Stipulation”); (ii) approving the form and manner of the notice of the Settlement; and (iii) setting a date for the Settlement Hearing.³

WHEREAS, the Stipulation sets forth the terms and conditions for the Settlement, including, but not limited to a proposed Settlement and dismissal with prejudice of the above-captioned stockholder derivative action brought on behalf of OvaScience (the “State Action”), as well as resolution of a similar derivative action pending in the United States District Court, District of Massachusetts, captioned *Chiu, et al. v. Dipp, et al.*, Case No. 1:17-cv-11382 (“Federal Action,” together with the State Court Action, the “Derivative Actions)

WHEREAS, the Court having: (i) read and considered Plaintiffs’ Unopposed Motion for Preliminary Approval of Derivative Settlement together with the accompanying Memorandum of Law in Support; (ii) read and considered the Stipulation, as well as all the exhibits attached thereto; and (iii) heard and considered arguments by counsel for the Parties in favor of preliminary approval of the Settlement;

WHEREAS, the Court finds, upon a preliminary evaluation, that the proposed Settlement falls within the range of possible approval criteria, as it provides a beneficial result for Tempest and appears to be the product of serious, informed, non-collusive negotiations overseen by an experienced mediator; and

² OvaScience, Inc. no longer exists and through two reverse mergers a separate company, Tempest Therapeutics, Inc. (“Tempest” or the “Company”), inherited the liability. None of the individual defendants named in this litigation were ever Tempest officers or directors.

³ Except as otherwise expressly provided below or as the context otherwise requires, all capitalized terms contained herein shall have the same meanings and/or definitions as set forth in the Stipulation.

WHEREAS, the Court also finds, upon a preliminary evaluation, that Tempest shareholders should be apprised of the Settlement through the Parties' proposed form and means of notice, allowed to file objections, if any, thereto, and appear at the Settlement Hearing.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

1. This Court preliminarily approves, subject to further consideration at the Settlement Hearing described below, the Settlement as set forth in the Stipulation as being fair, reasonable, and adequate.

2. A hearing shall be held on _____, 2023 at _____.m., before the Honorable Peter Krupp at the Suffolk County Superior Court, 3 Pemberton Square, Boston, MA 02108 (the "Settlement Hearing"), at which the Court will determine: (i) whether the terms of the Stipulation should be approved as fair, reasonable, and adequate; (ii) whether all Released Claims against the Released Persons should be fully and finally released; (iii) whether the agreed-to Fee and Expense Award as well as the Service Awards should be approved; and (iv) such other matters as the Court may deem appropriate.

3. The Court finds that the form, substance, and dissemination of information regarding the proposed Settlement in the manner set out in this order ("Preliminary Approval Order") constitutes the best notice practicable under the circumstances and complies fully with Massachusetts Rule of Civil Procedure 23.1 and due process.

4. Within ten (10) days after the entry of this Order, Tempest shall: (1) publish the Notice in the *Investor's Business Daily*; (2) post a copy of the Notice and the Stipulation, with its exhibits, on the Investor Relations page of the Company's website; and (3) file a Form 8-K with the SEC that announces the Settlement of the Derivative Actions and that provides a link to the

Investor Relations page of the Company's website where the Notice and Stipulation with its exhibits may be viewed to obtain more information about the Settlement. The Notice shall provide a link to the Investor Relations page of Tempest's website where the Notice and Stipulation with its exhibits, may be viewed, which link shall be maintained through the date of the Settlement Hearing.

5. All costs incurred in the posting, filing, and issuing of the Notice of the Settlement shall be paid by Tempest, and Tempest shall undertake all administrative responsibility for the filing, issuing, and posting of the Notice of the Settlement.

6. No later than (20) days following entry of this Order, Defendants' Counsel shall file with the Court an appropriate affidavit or declaration with respect to filing, issuing, and posting the Notice of the Settlement as provided for in paragraph 4 of this Preliminary Approval Order.

7. All Current Company Shareholders shall be subject to and bound by the provisions of the Stipulation and the releases contained therein, and by all orders, determinations, and judgments in the Action concerning the Settlement, whether favorable or unfavorable to Current Company Shareholders.

8. Pending the Effective Date or the termination of the Stipulation according to its terms, Plaintiffs and Company shareholders, and anyone who acts or purports to act on their behalf, are barred and enjoined from commencing, prosecuting, instigating, or in any way participating in the commencement or prosecution of any action asserting any Released Claims derivatively against any of the Released Persons in any court or tribunal.

9. Any shareholder of Tempest common stock may appear and show cause, if he, she, or it has any reason why the Settlement embodied in the Stipulation should not be approved as fair, reasonable, and adequate, or why a judgment should or should not be entered hereon, or the

Fee and Expense Award or Service Awards should not be awarded. However, no Company shareholder shall be heard or entitled to contest the approval of the proposed Settlement, or, if approved, the Judgment to be entered hereon, unless that Company shareholder has caused to be filed, and served on counsel as noted below, written objections stating all supporting bases and reasons for the objection, and setting forth proof, including documentary evidence, of current ownership of Company stock and ownership of Company stock as of the date of the Stipulation, providing the identities of any cases, by name, court, and docket number, in which the shareholder or his, her, or its attorney has objected to a settlement in the last three years.

10. At least twenty-one (21) days prior to the Settlement Hearing, any such Company shareholder must file the written objection(s) and corresponding materials with the Clerk of the Court, Suffolk County Superior Court, 3 Pemberton Square, Boston, MA 02108 and serve such materials by that date, to each of the following Parties' counsel:

Counsel for Plaintiffs:

THE BROWN LAW FIRM, P.C.
Timothy Brown
767 Third Avenue, Suite 2501
New York, NY 10017
Telephone: (516) 922-5427
E-mail: tbrown@thebrownlawfirm.net

GAINEY McKENNA & EGLESTON
Thomas J. McKenna
501 Fifth Avenue, 19th Floor
New York, NY 10017
Telephone: (212) 983-1300
Email: tjmckenna@gme-law.com

Counsel for Defendants:

MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
John F. Sylvia, BBO # (555581)
Matthew D. Levitt, BBO # (660554)
One Financial Center
Boston, MA 02111
Tel: (617) 348-1820
Email: Jfsylvia@mintz.com
Mdlevitt@mintz.com

11. Only Company shareholders who have filed with the Court and sent to the Parties' counsel valid and timely written notices of objection will be entitled to be heard at the hearing unless the Court orders otherwise.

12. Any Person or entity who fails to appear or object in the manner provided herein shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness, reasonableness, or adequacy of the Settlement and to the Fee and Expense Award and Service Awards, unless otherwise ordered by the Court, but shall be forever bound by the Judgment to be entered and the releases to be given as set forth in the Stipulation.

13. Plaintiffs shall file their motion for final approval of the Settlement at least twenty-eight (28) days prior to the Settlement Hearing. If there is any objection to the Settlement, any response to the objection(s) must be filed at least seven (7) days prior to the Settlement Hearing.

14. All proceedings in this Action are stayed until further order of the Court, except as may be necessary to implement the Settlement or comply with the terms of this Stipulation.

15. This Court may, for good cause, extend any of the deadlines set forth in this Preliminary Approval Order without further notice to shareholders.

16. Neither the Stipulation nor the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Stipulation or the Settlement: (i) is or may be deemed to be or may be offered, attempted to be offered or used in any way by the Parties or any other Person as a presumption, a concession or an admission of, or evidence of, any fault, wrongdoing, liability, or non-liability of the Parties or Released Persons, or of the validity or infirmity of any Released Claims; or (ii) is intended by the Parties to be offered or received as evidence or used by any other person in any other actions or proceedings, whether civil, criminal, or administrative, other than to enforce the terms therein.

17. The Court reserves the right to hold the Settlement Hearing telephonically or by videoconference without further notice to Company shareholders. Any Company shareholder (or his, her or its counsel) who wishes to appear at the Settlement Hearing should consult the Court's

calendar and/or the Investors Relations page of Tempest's website for any change in date, time or format of the Settlement Hearing. The Court may approve the Settlement and any of its terms, with such modifications as may be agreed to by the Parties, if appropriate, without further notice to Current Company Shareholders. The Court retains jurisdiction to consider all further applications arising out of or connected with the Settlement.

IT IS SO ORDERED.

DATED: _____

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
BUSINESS LITIGATION SESSION

JOSEPH CIMA, derivatively and on behalf of
OVASCIENCE, INC.

Plaintiff,

v.

MICHELLE DIPP, JEFFREY YOUNG,
RICHARD H. ALDRICH, MARY FISHER,
MARC KOZIN, STEPHEN KRAUS, THOMAS
MALLEY, HARALD F. STOCK, JOHN HOWE,
and JOHN SEXTON,

Defendants,

and

OVASCIENCE, INC.

Nominal Defendant.

CIVIL ACTION NO. 2016-3443-BLSI

EXHIBIT C

**NOTICE OF PENDENCY AND PROPOSED SETTLEMENT OF STOCKHOLDER
DERIVATIVE ACTIONS**

**TO: ALL RECORD HOLDERS AND BENEFICIAL OWNERS OF PREVIOUS
ENTITY KNOWN AS OVASCIENCE, INC.¹, NOW KNOWN AS TEMPEST
THERAPEUTICS, INC. (“TEMPEST” OR THE “COMPANY”) COMMON STOCK
(TICKER SYMBOL: TPST)**

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. THIS NOTICE
RELATES TO A PROPOSED SETTLEMENT AND DISMISSAL WITH PREJUDICE OF
LEGACY STOCKHOLDER DERIVATIVE LITIGATION THAT INVOLVED THE TEMPEST
PREDECESSOR COMPANY KNOWN AS OVASCIENCE, INC. AND CONTAINS
IMPORTANT INFORMATION REGARDING YOUR RIGHTS.

¹ OvaScience, Inc. (“OvaScience”) no longer exists. Through two reverse mergers a separate company, Tempest Therapeutics, Inc. (“Tempest” or the “Company”), inherited OvaScience’s liability. None of the individual defendants named in this litigation were ever Tempest officers or directors.

IF THE COURT APPROVES THE SETTLEMENT OF THE DERIVATIVE ACTIONS, COMPANY SHAREHOLDERS WILL BE FOREVER BARRED FROM CONTESTING THE APPROVAL OF THE PROPOSED SETTLEMENT AND DISMISSAL WITH PREJUDICE, AND FROM PURSUING RELEASED CLAIMS.

THIS ACTION IS NOT A “CLASS ACTION.” THUS, THERE IS NO COMMON FUND UPON WHICH YOU CAN MAKE A CLAIM FOR A MONETARY PAYMENT.

PLEASE TAKE NOTICE that this action is being settled on the terms set forth in a Stipulation of Settlement, dated March 20, 2023 (the “Stipulation”). The purpose of this Notice is to inform you of:

- the existence of the above-captioned derivative action pending in the Superior Court of the Commonwealth of Massachusetts, Suffolk County (the “Court”) captioned *Cima v. Dipp, et al.*, Case No. 2016-3443-BLSI (the “Action”),
- the existence of a similar derivative action pending in the United States District Court, District of Massachusetts, captioned *Chiu, et al. v. Dipp, et al.*, Case No. 1:17-cv-11382 (“Federal Action,” together with the State Court Action, the “Derivative Actions”),
- the proposed settlement between Plaintiffs² and Defendants reached in the Derivative Actions (the “Settlement”),
- the hearing to be held by the Court to consider the fairness, reasonableness, and adequacy of the Settlement and dismissal of the Consolidated Action with prejudice,
- Plaintiffs’ Counsel’s application for fees and expenses, and
- Plaintiffs’ case contribution service awards.

This Notice describes what steps you may choose to take, if any, in relation to the Settlement. This Notice is not an expression of any opinion by the Court about the truth or merits of Plaintiffs’ claims or Defendants’ defenses. This Notice is solely to advise you of the proposed Settlement of the Derivative Actions and of your rights in connection with the proposed Settlement.

Summary

On March 20, 2023, the Company, in its capacity as a nominal defendant, entered into the Stipulation to resolve the Derivative Actions filed derivatively on behalf of legacy company OvaScience, Inc., in the Superior Court of Massachusetts, Suffolk County against certain current

² All capitalized terms used in this Notice, unless otherwise defined herein, are defined as set forth in the Stipulation.

and former directors and officers of the Company and against the Company as a nominal defendant. The Stipulation and the settlement contemplated therein (the “Settlement”), subject to the approval of the Court, are intended by the Parties to fully, finally, and forever compromise, resolve, discharge, and settle the Released Claims and to result in the complete dismissal of the Derivative Actions with prejudice, upon the terms and subject to the conditions set forth in the Stipulation. The Settlement was reached after a long, arms-length settlement process. The proposed Settlement requires the Company to adopt certain corporate governance reforms, as outlined in Exhibit A to the Stipulation.

In light of the substantial benefits conferred upon the Company by Plaintiffs’ Counsel’s efforts, after engaging in arm’s length negotiations, the Individual Defendants³ agreed to cause their insurers to pay Plaintiffs’ Counsel’s attorneys’ fee and expenses in the amount of \$450,000.00 (the “Fee and Expense Award”), subject to Court approval. Plaintiffs’ Counsel may also apply to the Court for \$1,500 case contribution service awards to be paid to each of the three Plaintiffs (the “Service Awards”), to be paid out of the Fee and Expense Award.

This Notice is a summary only and does not describe all of the details of the Stipulation. For full details of the matters discussed in this summary, please see the full Stipulation and its exhibits posted on the Company’s website, www.ova-science.com, contact Plaintiffs’ Counsel at the addresses listed below, or inspect the full Stipulation and its exhibits filed with the Clerk of the Court.

What are the Lawsuits About?

The Derivative Actions were brought derivatively on behalf of nominal defendant OvaScience, Inc., a predecessor company of Tempest, and allege that, beginning in 2013, the Individual Defendants breached their fiduciary duties and committed other violations of law by making and/or causing OvaScience to make materially false statements or omissions to the investing public, and by causing the Company to fail to maintain internal controls. Specifically, the Derivative Actions allege that legacy OvaScience, Inc. was a fertility company that claimed to have discovered a therapy which increased in vitro fertilization (“IVF”) live birth rates by extracting mitochondria (a substance in egg cells which is generally viewed as the energy source of the egg) from egg precursor cells (immature egg cells found in the protective outer layer of a woman’s own ovaries) and injecting the same into the mature egg being utilized in the IVF process. The Derivative Actions alleged that this process, the AUGMENTSM treatment (“AUGMENT”), was OvaScience, Inc.’s sole marketable product at the relevant time.

The Derivative Actions also alleged that the theory that such injection of additional mitochondria improves egg health and IVF success rates, was difficult to test and prove. It was further difficult to test the efficacy of the AUGMENT treatment. Nonetheless, the Derivative

³ The “Individual Defendants” are defined in the Stipulation as Michelle Dipp, Jeffrey Young, Richard H. Aldrich, Mary Fisher, Marc Kozin, Stephen Kraus, Thomas Malley, Harald F. Stock, John Howe, John Sexton and Jeffrey D. Cappello. None of the Individual Defendants were ever Tempest officers or directors.

Actions alleged that OvaScience, Inc. repeatedly communicated to investors that the efficacy of AUGMENT had been scientifically validated, which was untrue. Further, on March 16, 2015, OvaScience, Inc. represented to investors that it was on target to have 1,000 active AUGMENT treatment cycles in process by the end of fiscal 2015, which the Derivative Actions also alleges was untrue and known by OvaScience, Inc. to be untrue.

The Derivative Actions alleged that the Individual Defendants caused OvaScience, Inc. to issue false and misleading statements and/or failed to disclose, among other things, that: (a) the science behind AUGMENT had not been scientifically validated; (b) OvaScience, Inc. was unable to achieve the purported success rates it claimed; (c) the reasons why OvaScience, Inc. moved its studies outside of the United States; (d) that at all relevant times, OvaScience, Inc. profitability and prospects were false and misleading; and (e) resultantly, OvaScience, Inc. lacked adequate internal controls over its publicly issued statements and financial reporting.

Why is there a Settlement of the Derivative Actions?

The Court has not decided in favor of Defendants or Plaintiffs in the Derivative Actions. Instead, the Parties have agreed to the Settlement to avoid the distraction, costs, and risks of further litigation, and because the Company has determined that the corporate governance reforms adopted by the Company as part of the Settlement provide substantial benefits to the Company and its shareholders.

Defendants have denied and continue to deny each and all of the claims and contentions alleged by Plaintiffs in the Derivative Actions. The Individual Defendants have expressly denied and continue to deny all charges of wrongdoing or liability against them arising out of any of the conduct, statements, acts, or omissions alleged, or that could have been alleged, in the Derivative Actions. Nonetheless, Defendants have concluded that it is desirable for the Derivative Actions to be fully and finally settled in the matter and upon the terms and conditions set forth in this Stipulation.

The Settlement Hearing, and Your Right to Object to the Settlement

On _____, 2023, the Court entered an order preliminarily approving the Stipulation and the Settlement contemplated therein (the "Preliminary Approval Order") and providing for notice of the Settlement to be made to the Company's shareholders. The Preliminary Approval Order further provides that the Court will hold a hearing (the "Settlement Hearing") on _____, 2023 at __: __.m. before the Honorable _____ at the Suffolk County Superior Court, 3 Pemberton Square, Boston, MA 02108 to among other things: (i) determine whether the proposed Settlement is fair, reasonable and adequate and in the best interests of the Company and its current shareholders; (ii) consider any objections to the Settlement submitted in accordance with this Notice; (iii) determine whether a judgment should be entered dismissing all claims in the Derivative Actions with prejudice, and releasing the Released Claims against the Released Persons; (iv) whether the Court should approve the agreed-to Fee and Expense Award; (v) whether the Court should approve the Service Awards, which shall be funded from the Fee and Expense Award to the extent approved by the Court; and (vii) consider any other matters that may properly be brought before the Court in connection with the Settlement.

Counsel for Defendants:

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An objector may file an objection on his, her, or its own or through an attorney hired at his, her, or its own expense. If an objector hires an attorney to represent him, her, or it for the purposes of making such objection, the attorney must serve (either by hand delivery or by first class mail) a notice of appearance on the counsel listed above and file such notice with the Court no later than twenty-one (21) calendar days before the Settlement Hearing. Any current shareholder of the Company who does not timely file and serve a written objection complying with the above terms shall be deemed to have waived, and shall be foreclosed from raising, any objection to the Settlement, and any untimely objection shall be barred.

Any objector who files and serves a timely, written objection in accordance with the instructions above, may appear at the Settlement Hearing either in person or through counsel retained at the objector's expense. Objectors need not attend the Settlement Hearing, however, in order to have their objections considered by the Court.

If you are a current shareholder of the Company and do not take steps to appear in this action and object to the proposed Settlement, you will be bound by the Judgment of the Court and will forever be barred from raising an objection to the settlement in this State Court Action, and from pursuing any of the Released Claims.

COMPANY SHAREHOLDERS AS OF MARCH 20, 2023 WHO HAVE NO OBJECTION TO THE SETTLEMENT DO NOT NEED TO APPEAR AT THE SETTLEMENT HEARING OR TAKE ANY OTHER ACTION.

Interim Stay and Injunction

Pending the Court's determination as to final approval of the Settlement, Plaintiffs and Plaintiffs' Counsel, and any Company shareholders, derivatively on behalf of the Company, are barred and enjoined from commencing, prosecuting, instigating, or in any way participating in the commencement or prosecution of any action asserting any Released Claims derivatively against any of the Released Persons in any court or tribunal.

Scope of the Notice

This Notice is a summary description of the Derivative Actions, the complaints, the terms of the Settlement, and the Settlement Hearing. For a more detailed statement of the matters involved in the Derivative Actions, reference is made to the Stipulation and its exhibits, copies of which may be reviewed and downloaded at www.courtclerk.org.

* * *

You may obtain further information by contacting Plaintiffs' Counsel at: Timothy Brown, The Brown Law Firm, P.C., 767 Third Avenue, Suite 2501, New York, NY 10017, Telephone: (516) 922-5427, E-mail: tbrown@thebrownlawfirm.net; or Thomas J. McKenna, Gainey McKenna & Egleston, 501 Fifth Avenue, 19th Floor, New York, NY 10017, Telephone: (212) 983-1300, E-mail: tjmckenna@gme-law.com. **Please Do Not Call the Court or Defendants with Questions About the Settlement.**

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
BUSINESS LITIGATION SESSION

JOSEPH CIMA, derivatively and on behalf of
OVASCIENCE, INC.

Plaintiff,

v.

MICHELLE DIPP, JEFFREY YOUNG,
RICHARD H. ALDRICH, MARY FISHER,
MARC KOZIN, STEPHEN KRAUS, THOMAS
MALLEY, HARALD F. STOCK, JOHN HOWE,
and JOHN SEXTON,

Defendants,

and

OVASCIENCE, INC. (now known as TEMPEST
THERAPEUTICS, INC.)

Nominal Defendant.

CIVIL ACTION NO. 2016-3443-BLSI

EXHIBIT D

[PROPOSED] ORDER AND FINAL JUDGMENT

This matter came before the Court for hearing on _____, 2023, to consider approval of the proposed settlement (“Settlement”) set forth in the Stipulation of Settlement dated March 20, 2023 (the “Stipulation”). The Court has reviewed and considered all documents, evidence, objections (if any), and arguments presented in support of or against the Settlement. Good cause appearing therefore, the Court enters this Order and Final Judgment (the “Judgment”).

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. This Judgment incorporates by reference the definitions in the Stipulation, and all

capitalized terms used herein shall have the same meanings as set forth in the Stipulation.

2. This Court has jurisdiction over the subject matter of the Action, including all matters necessary to effectuate the Settlement, and over the Parties.

3. The Court finds that the form of the notice of the Settlement and the means of dissemination of the notice of the Settlement provided to Current Company Stockholders constituted the best notice practicable under the circumstances and fully satisfied the requirements of Massachusetts Rule of Civil Procedure 23.1 and the requirements of due process.

4. The Court hereby approves the Settlement set forth in the Stipulation and finds that the Settlement is, in all respects, fair, reasonable, and adequate to each of the Parties, and further finds that the Settlement is in the best interests of the Company and Current Company Stockholders.

5. The Action and all claims contained therein, as well as all of the Released Claims against Released Persons, are dismissed with prejudice. The Parties are to bear their own costs, except as otherwise provided below.

6. Upon the Effective Date, to the extent that the Plaintiffs, Plaintiffs' Counsel, and each of the Current Company Stockholders possess any of the Released Claims derivatively, Plaintiffs, Plaintiffs' Counsel, and each of the Current Company's Stockholders (solely in their capacity as Company stockholders) shall be deemed to have, and by operation of this Judgment shall have, fully, finally, and forever waived, released, relinquished, discharged and dismissed all Released Claims (including Unknown Claims) against the Released Persons, including any and all claims (including Unknown Claims) against the Released Persons arising out of, relating to, or in connection with the defense, Settlement, or resolution of the Action.

7. Upon the Effective Date, to the extent Plaintiffs, Plaintiffs' Counsel, and each of the Current Company's Stockholders possess any of the Released Claims derivatively, Plaintiffs, Plaintiffs' Counsel, and each of the Current Company's Stockholders (solely in their capacity as OvaScience shareholders) shall be forever barred, estopped, and enjoined from commencing, instituting, or prosecuting any of the Released Claims (including Unknown Claims) or any action or other proceeding against any of the Released Persons based on the Released Claims, or any action or proceeding arising out of, relating to, or in connection with the Released Claims or the filing, prosecution, defense, settlement, or resolution of the Action. Nothing herein shall in any way impair or restrict the rights of any Party to enforce the terms of the Stipulation.

8. Upon the Effective Date, the Company, shall be deemed to have, and by operation of this Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims (including Unknown Claims) against the Released Persons.

9. Upon the Effective Date, the Company shall be forever barred, estopped, and enjoined from commencing, instituting, or prosecuting any of the Released Claims (including Unknown Claims) or any action or other proceeding against any of the Released Persons based on the Released Claims, or any action or proceeding arising out of, relating to, or in connection with the Released Claims or the filing, prosecution, defense, settlement, or resolution of the Action. Nothing herein shall in any way impair or restrict the rights of any Party to enforce the terms of the Stipulation.

10. Upon the Effective Date, each of the Released Persons shall be deemed to have fully, finally, and forever released, relinquished, and discharged Plaintiffs and their Related Persons, Plaintiffs' Counsel and their Related Persons, and the Current Company's Stockholders (solely in their capacity as Company stockholders) and their Related Persons from all claims

(including Unknown Claims), arising out of, relating to, or in connection with the institution, prosecution, assertion, settlement, or resolution of the Action or the Released Claims. Nothing herein shall in any way impair or restrict the rights of any Party to enforce the terms of the Stipulation.

11. During the course of the litigation, all parties and their respective counsel at all times complied with the requirements of Massachusetts Rule of Civil Procedure 11.

12. The Court hereby approves the sum of four hundred and fifty thousand dollars (\$450,000.00) for the payment of Plaintiffs' Counsel's attorneys' fees and expenses ("Fee and Expense Award") and finds that the Fee and Expense Award is fair and reasonable. No other fees, costs, or expenses may be awarded to Plaintiffs' Counsel in connection with the Settlement. The Fee and Expense Award shall be distributed in accordance with the terms of the Stipulation.

13. The Court hereby approves the Service Awards of one thousand five hundred dollars (\$1,500.00) for each of the three Plaintiffs to be paid from Plaintiffs' Counsel's Fee and Expense Award in recognition of Plaintiffs' participation and effort in the prosecution of the Derivative Actions.

14. Neither this Judgement, nor the Stipulation, nor the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Stipulation or the Settlement: (i) is or may be deemed to be or may be offered, attempted to be offered or used in any way by the Parties or any other Person as a presumption, a concession or an admission of, or evidence of, any fault, wrongdoing, liability, or non-liability of the Parties or Released Persons, or of the validity or infirmity of any Released Claims; or (ii) is intended by the Parties to be offered or received as evidence or used by any other person in any other actions or proceedings, whether civil, criminal, or administrative, other than to enforce the terms therein.

15. Without affecting the finality of this Judgment entered in accordance with the Stipulation, the Court shall retain jurisdiction to implement and enforce the terms of the Stipulation and this Judgment and to consider any matters or disputes arising out of or relating to the Settlement, and the Parties submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in the Stipulation and Judgment, and for matters or disputes arising out of or relating to the Settlement.

16. Pursuant to Massachusetts Rule of Civil Procedure 23.1, this Court hereby finally approves the Stipulation and Settlement in all respects, and orders the Parties to perform its terms to the extent the Parties have not already done so.

17. This Judgment is a final judgment, and the Court finds that no just reason exists for delay in entering this Judgment in accordance with the Stipulation. Accordingly, the Clerk is hereby directed to enter this Judgment forthwith in accordance with Massachusetts Rule of Civil Procedure 58.

IT IS SO ORDERED.

DATED: _____