

**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

STEWART N. GOLDSTEIN, M.D., )  
individually and on behalf of all others )  
similarly situated, )

Plaintiff, )

v. )

C.A. No. 2020-1061-JTL )

ALEXANDER J. DENNER, JOHN G. )  
COX, ANNA PROTOPAPAS, )  
BRIAN S. POSNER, LOUIS J. )  
PAGLIA, GENO J. GERMANO, )  
JOHN T. GREENE, ANDREA )  
DiFABIO, SARISSA CAPITAL )  
MANAGEMENT, L.P., SARISSA )  
CAPITAL DOMESTIC FUND LP, )  
SARISSA CAPITAL OFFSHORE )  
MASTER FUND LP, and SARISSA )  
CAPITAL MANAGEMENT GP LLC, )

Defendants. )

**STIPULATION AND AGREEMENT OF COMPROMISE  
AND PARTIAL SETTLEMENT**

This Stipulation and Agreement of Compromise and Partial Settlement (the “Stipulation”), dated April 14, 2023, is entered into by and among the following Parties in the above-captioned action (“Action”): (i) plaintiff Stewart N. Goldstein, M.D. (“Plaintiff”), on behalf of himself and on behalf of the Class,<sup>1</sup> and (ii) defendants John G. Cox (“Cox”), Anna Protopapas (“Protopapas”), Brian S. Posner

---

<sup>1</sup> All terms herein with initial capitalization shall, unless defined elsewhere in this Stipulation, have the meanings given to them in Section I below.

(“Posner”), Louis J. Paglia (“Paglia”), Geno J. Germano (“Germano”), John T. Greene (“Greene”), and Andrea DiFabio (“DiFabio” and collectively, the “Settling Defendants”). Non-parties Bioverativ, Inc. (“Bioverativ” or the “Company”) and Sanofi, S.A. (“Sanofi”), along with Plaintiff and the Settling Defendants, also enter into this Stipulation on the terms herein.

This Stipulation states all of the terms of the partial Settlement and resolution of certain claims asserted in the Action and is intended by Plaintiff, the Settling Defendants, Bioverativ, and Sanofi to fully, finally, and forever release, resolve, remise, compromise, settle, and discharge the Released Plaintiff’s Claims (defined below) and the Released Defendants’ Claims (defined below), subject to the approval of the Court.

WHEREAS:

A. On January 21, 2018, the board of directors (the “Board”) of Bioverativ, a Delaware corporation, approved the Company’s entry into an Agreement and Plan of Merger (the “Merger Agreement”), pursuant to which Bioverativ agreed to be acquired by Sanofi (the “Acquisition”) for \$105.00 per share (the “Acquisition Consideration”).

B. On January 22, 2018, Bioverativ announced that it had entered into the Merger Agreement, which provided for a tender offer (the “Tender Offer”) followed by a merger pursuant to 8 *Del. C.* § 251.

C. On February 27, 2018, Plaintiff sent a letter to the Board of Bioverativ demanding inspection of Bioverativ's books and records, pursuant to 8 *Del. C.* § 220.

D. On March 6, 2018, Bioverativ responded to Plaintiff's inspection demand letter.

E. On March 7, 2018, Plaintiff filed a lawsuit in the Court, pursuant to Section 220 of the Delaware General Corporation Law, captioned *Stewart N. Goldstein, M.D. v. Bioverativ, Inc.*, C.A. No. 2018-0156-JTL (Del. Ch.) (the "§ 220 Action"), seeking to compel inspection of Bioverativ's books and records.

F. On March 7, 2018, the Tender Offer closed with stockholders having tendered sufficient shares of common stock to satisfy the minimum tender condition of the Merger Agreement.

G. On March 8, 2018, the Acquisition was completed and Bioverativ became a wholly-owned subsidiary of Sanofi.

H. Following briefing and negotiations between Plaintiff's Counsel and Bioverativ's counsel, Bioverativ produced books and records for inspection by Plaintiff to resolve the § 220 Action.

I. On December 15, 2020, Plaintiff filed his Verified Class Action Complaint (the "Complaint") against Defendants, alleging (i) in Count I that defendants Alexander J. Denner ("Denner"), Cox, Protopapas, Posner, Paglia, and

Germano, in their capacities as directors of Bioverativ, breached their fiduciary duties to Bioverativ's stockholders in connection with the Acquisition and disclosures relating thereto; (ii) in Count II that defendants Cox, Greene, and DiFabio, in their capacities as officers of Bioverativ, breached their fiduciary duties to Bioverativ's stockholders in connection with the Acquisition and disclosures relating thereto; (iii) in Count III that defendant Denner breached his fiduciary duties in connection with his purchase of 1,010,000 million shares of Bioverativ common stock through Sarissa Capital (defined below) in May 2017 based on material, non-public information and profited when he was paid \$105.00 per share by Sanofi for those 1,010,000 shares in the Acquisition; and (iv) in Count IV that Sarissa Capital (defined below) aided and abetted Denner's breaches of fiduciary duty for the conduct alleged in Count III.

J. On March 17, 2021, Defendants filed briefs in support of motions to dismiss Plaintiff's Complaint. Briefing on Defendants' motions to dismiss was completed on June 18, 2021.

K. On September 27, 2021, Plaintiff served his first request for production of documents. Defendants filed a motion for a protective order staying discovery on October 8, 2021. After briefing, the Court denied the motion for a protective order staying discovery on November 18, 2021.

L. On May 26, 2022, the Court issued a memorandum opinion denying the

motions to dismiss as to Counts I and II of the Complaint. On June 2, 2022, the Court issued a memorandum opinion denying the motion to dismiss as to Counts III and IV of the Complaint.

M. The Parties engaged in extensive discovery, including by preparing, serving and responding to requests for production of documents and interrogatories, serving subpoenas on third parties, negotiating privilege disputes, taking and defending depositions, and engaging in various written and oral communications concerning the scope of discovery. As of the date of this Stipulation, Plaintiff has obtained and reviewed approximately 148,924 documents (over 1 million pages) from Defendants and nine non-parties, including Bioverativ, Sanofi, J.P. Morgan Securities LLC and Guggenheim Securities LLC (the financial advisors to Bioverativ in connection with the Acquisition), Lazard Frères & Co. (the financial advisor to Sanofi in connection with the Acquisition), Biogen Inc. (the company from which Bioverativ was spun off in 2017), Paul, Weiss, Rifkind, Wharton & Garrison LLP (the counsel to Bioverativ in connection with the acquisition), and two wireless service providers. Plaintiff produced documents and responded to three sets of interrogatories (88 interrogatories, excluding subparts) from Defendants. As of the date of this Stipulation, Plaintiff's Counsel has taken 13 depositions, including the depositions of all Settling Defendants, and propounded 33 interrogatories (excluding subparts) to each of the Settling Defendants.

N. Plaintiff, the Settling Defendants, Bioverativ, and Sanofi have engaged in substantial settlement negotiations, which included a June 10, 2022 mediation before former U.S. District Judge Layn R. Phillips following the exchange of opening and reply briefs. The first full-day mediation did not result in a settlement, but the parties periodically continued settlement discussions through Judge Phillips over the next nine months as the litigation progressed. Following additional written submissions to Judge Phillips informed by the evidence adduced during oral and written discovery, a second formal mediation session was held on March 12, 2023. At the end of this mediation session, Plaintiff, the Settling Defendants, Bioverativ, and Sanofi reached an agreement to settle the Released Plaintiff's Claims for \$84,000,000 in cash, subject to Court approval, the terms of which are reflected in this Stipulation.

O. This Stipulation is intended to fully, finally, and forever release, resolve, remise, compromise, settle, and discharge the Released Plaintiff's Claims and the Released Defendants' Claims with prejudice.

P. The entry by the Parties, Bioverativ, and Sanofi into this Stipulation is not, and shall not be construed as or deemed to be evidence of, an admission as to the merit or lack of merit of any claims or defenses that were asserted or could have been asserted in the Action.

Q. Plaintiff continues to believe that his claims have legal merit, but also

believes that the Settlement set forth below provides substantial and immediate benefits for the Class. In addition to these substantial benefits, Plaintiff and Plaintiff's Counsel (defined below) have considered: (i) the attendant risks of continued litigation and the uncertainty of the outcome of the Released Plaintiff's Claims; (ii) the probability of success on the merits of the Released Plaintiff's Claims; (iii) the inherent problems of proof associated with, and possible defenses to, the Released Plaintiff's Claims; (iv) the desirability of permitting the Settlement to be consummated according to its terms; (v) the expense and length of continued proceedings necessary to prosecute the Released Plaintiff's Claims against the Settling Defendants through trial and appeals; and (vi) the conclusion of Plaintiff and Plaintiff's Counsel that the terms and conditions of the Stipulation are fair, reasonable, and adequate, and that it is in the best interests of the Class to settle the Released Plaintiff's Claims on the terms set forth herein.

R. Based on Plaintiff's Counsel's extensive review and analysis of the relevant facts, allegations, defenses, and controlling legal principles, which has been ongoing since 2018, Plaintiff's Counsel believes that the Settlement set forth in this Stipulation is fair, reasonable, and adequate, and confers substantial benefits upon the Class. Based upon Plaintiff's Counsel's evaluation as well as Plaintiff's own evaluation, Plaintiff has determined that the Settlement is in the best interests of the Class and has agreed to the terms and conditions set forth herein.

S. The Settling Defendants deny any and all allegations of wrongdoing, liability, breach of fiduciary duty, violations of law, or damages arising out of or related to any of the conduct, statements, acts, or omissions alleged in the Action, and maintain that their conduct was at all times proper, in compliance with applicable law, and in the best interests of Bioverativ and its stockholders. Each of the Settling Defendants asserts that, at all relevant times, he or she acted in good faith, and in a manner reasonably believed to be in the best interests of Bioverativ and all of its stockholders. The Settlement and this Stipulation shall in no event be construed as, or deemed to be, evidence of or an admission or concession on the part of the Settling Defendants with respect to any claim, any legal or factual allegation, any fault, any wrongdoing, any breach of duty, any liability, any harm or damage whatsoever, or any infirmity in the defenses that the Settling Defendants have or could have asserted. The Settling Defendants enter into this Stipulation solely because they consider it desirable that the Released Plaintiff's Claims be settled and dismissed with prejudice in order to (1) eliminate the uncertainty, burden, inconvenience, distraction, and expense of further litigation, and (2) finally and forever put to rest, resolve, and terminate the Released Plaintiff's Claims.

T. Plaintiff, for himself and on behalf of the Class, and the Settling Defendants, Bioverativ, and Sanofi agree that the Settlement is intended to and will resolve the Released Plaintiff's Claims against the Released Defendant Parties,



Bioverativ, and Sanofi, but not the Non-Released Plaintiff's Claims against Denner and/or Sarissa Capital.

NOW, THEREFORE, IT IS HEREBY STIPULATED, CONSENTED TO, AND AGREED, by Plaintiff, for himself and on behalf of the Class, the Settling Defendants, Bioverativ, and Sanofi that, subject to the approval of the Court and pursuant to Court of Chancery Rule 23, for the good and valuable consideration set forth herein, the Released Plaintiff's Claims and Released Defendants' Claims shall be fully, finally, and forever settled, compromised, and dismissed on the merits and with prejudice, and are fully, finally and forever released, resolved, remised, compromised, settled, and discharged with prejudice as to the Released Defendant Parties, Bioverativ, Sanofi, and the Released Plaintiff Parties, in the manner and upon the terms and conditions set forth herein.

## **I. Definitions**

In addition to the terms defined elsewhere in this Stipulation, the following capitalized terms used in this Stipulation and any exhibits attached hereto shall have the meanings specified below:

(a) "Account" means the account that is maintained by the Escrow Agent and into which the Settlement Amount shall be deposited. The funds deposited into the Account shall be invested in instruments backed by the full faith and credit of the U.S. Government or agency thereof, or in money funds holding

only instruments backed by the full faith and credit of the United States Government and the proceeds of these instruments shall be reinvested at their then-current market rates.

(b) “Administrative Costs” means all costs, fees, and expenses incurred by the Administrator and/or Plaintiff’s Counsel in providing notice of the Settlement to the Class, locating Class Members, administering the Settlement, distributing the Settlement Fund, paying escrow taxes, fees and costs, if any, and otherwise administering or carrying out the terms of the Settlement. Such costs and expenses shall include, without limitation, the actual costs of printing and mailing the Notice, publishing the Notice, reimbursements to nominee owners for forwarding the notice to their Eligible Beneficial Owners, the administrative expenses incurred and fees charged by the Administrator in connection with providing notice and administering the Settlement, and the fees, if any, of the Escrow Agent.

(c) “Administrator” means the firm of Gilardi & Co. LLC.

(d) “Class” means a non-opt-out class consisting of any and all Persons who held outstanding shares of Bioverativ common stock, either of record or beneficially, at any time during the Class Period, including any and all of their representatives, trustees, executors, administrators, estates, heirs, successors in interest, successors, predecessors in interest, predecessors, transferees, and assigns,

immediate and remote, and any Person acting for or on behalf of, or claiming under, any of them, and each of them, together with their respective successors in interest, successors, predecessors in interest, predecessors, transferees, and assigns, but excluding the Excluded Persons.

(e) “Class Member” means a member of the Class.

(f) “Class Period” means May 24, 2017 through and including March 8, 2018.

(g) “Court” means the Court of Chancery of the State of Delaware.

(h) “DTC Participants” means the participants of the Depository Trust Company (“DTC”) for whom Cede & Co., Inc. (“Cede”), as nominee for DTC, was the holder of record of Bioverativ common stock at the time such shares were paid the Acquisition Consideration because the shares were tendered in the Tender Offer or were converted into the right to receive Acquisition Consideration pursuant to the terms of the Merger Agreement.

(i) “Effective Date” means the first business day following the date the Judgment becomes Final.

(j) “Eligible Beneficial Owner” means the ultimate beneficial owner of any shares of Bioverativ common stock held of record by Cede at the time such shares were paid the Acquisition Consideration because the shares were either tendered in the Tender Offer or converted into the right to receive the Acquisition

Consideration pursuant to the Merger Agreement, provided that no Excluded Person may be an Eligible Beneficial Owner.

(k) “Eligible Record Holder” means the record holder of any shares of Bioverativ common stock, other than Cede, at the time such shares were paid the Acquisition Consideration because the shares were either tendered in the Tender Offer or converted into the right to receive the Acquisition Consideration pursuant to the Merger Agreement, provided that no Excluded Person may be an Eligible Record Owner.

(l) “Escrow Agent” means Robbins Geller Rudman & Dowd LLP.

(m) “Excluded Persons” means Sanofi, Denner, Cox, Protopapas, Posner, Paglia, Germano, Greene, DiFabio, Sarissa Capital (defined below), as well as the members of their immediate families, and any entity in which any of them has a controlling interest, and the heirs, successors, or assignees of any such excluded party. Excluded Persons also include any trusts, estates, entities, or accounts that held Company shares for the benefit of any of the foregoing.

(n) “Fee and Expense Award” means an award to Plaintiff’s Counsel of fees and expenses to be paid from the Settlement Fund, approved by the Court and in full satisfaction of all claims for attorneys’ fees and any other expenses or costs that have been, could be, or could have been asserted by Plaintiff’s Counsel or

any other counsel, or any Class Member in connection with the Released Plaintiff's Claims and the Settlement.

(o) "Final," when referring to the Judgment, means the later of (i) entry of the Judgment and the expiration of any time for appeal, reconsideration, reargument, rehearing, or other review of the Judgment, or (ii) if any appeal or application for reconsideration, reargument or rehearing is filed and not dismissed or withdrawn, issuance of a decision upholding the Judgment in all material respects, which is no longer subject to appeal, reconsideration, reargument or rehearing, and the expiration of all times for the filing of any petition for reconsideration, reargument, rehearing, appeal, or review of the Judgment or any order affirming the Judgment; provided, however, that any disputes or appeals relating solely to the amount, payment, or allocation of the Fee and Expense Award, or to the allocation or distribution of the Net Settlement Fund (including the Plan of Allocation), shall have no effect on finality for purposes of determining the date on which the Judgment becomes Final and shall not otherwise prevent, limit, or otherwise affect the Judgment, or prevent, limit, delay, or hinder entry of Judgment.

(p) "Judgment" means the Order and Partial Final Judgment to be entered in the Action, in all material respects in the form attached as Exhibit C hereto.

(q) “Net Settlement Fund” means the Settlement Fund as defined herein less (i) any Fee and Expense Award, and interest thereon; (ii) Administrative Costs; (iii) Taxes and Tax Expenses; and (iv) other Court-approved deductions.

(r) “Notice” means the Notice of Pendency and Proposed Partial Settlement of Class Action (the “Notice”), substantially in the form attached hereto as Exhibit B.

(s) “Party” means any one of, and “Parties” means, collectively, the Settling Defendants and Plaintiff, on behalf of himself and the Class.

(t) “Person” means a natural person, individual, corporation, limited liability corporation, professional corporation, limited liability partnership, partnership, limited partnership, limited liability company, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity.

(u) “Plan of Allocation” means the manner in which the Net Settlement Fund will be distributed, as set forth in Section II and the Notice or as otherwise approved by the Court.

(v) “Plaintiff’s Counsel” means the law firms of Robbins Geller Rudman & Dowd LLP; Prickett, Jones & Elliott, P.A.; Cooch & Taylor, P.A.; and Johnson Fistel LLP.

(w) “Released Defendant Parties” means the Settling Defendants, Denner and Sarissa Capital (only with respect to Counts I and II), and any and all of their past or present immediate family members, parents, subsidiaries, affiliates, predecessors, successors, or assigns, as well as any and all of their current or former officers, directors, executives, employees, associates, agents, partners, limited partners, general partners, partnerships, principals, members, managers, joint ventures, stockholders, underwriters, attorneys (including Settling Defendants’ Counsel), advisors, financial advisors, consultants, bankers, publicists, independent certified public accountants, auditors, accountants, creditors, administrators, heirs, executors, trustees, trusts, estates, personal or legal representatives, or other persons acting on their behalf.<sup>2</sup>

(x) “Released Defendants’ Claims” means, as against the Released Plaintiff Parties, any and all claims, complaints, liabilities, causes of action, or sanctions, including Unknown Claims, that have been or could have been asserted

---

<sup>2</sup> For the avoidance of doubt, Denner and Sarissa Capital and any and all of their past or present immediate family members, parents, subsidiaries, affiliates, predecessors, successors, or assigns, as well as any and all of their current or former officers, directors, executives, employees, associates, agents, partners, limited partners, general partners, partnerships, principals, members, managers, joint ventures, stockholders, underwriters, attorneys, advisors, financial advisors, consultants, bankers, publicists, independent certified public accountants, auditors, accountants, creditors, administrators, heirs, executors, trustees, trusts, estates, personal or legal representatives, or other persons acting on their behalf (collectively, the “Sarissa Parties and Affiliates”) are not released as to the Non-Released Plaintiff’s Claims.

by the Settling Defendants in the Action or the §220 Action, or in any court, tribunal, forum, or proceeding, which arise out of or relate in any way to the institution, prosecution, settlement, or dismissal of the Action or the §220 Action; provided, however, that the Released Defendants' Claims shall not include (i) any claims to enforce this Stipulation or (ii) any claims to enforce a final order and judgment entered by the Court.

(y) "Released Plaintiff Parties" means Plaintiff, all other Class Members, Plaintiff's Counsel, and the legal representatives, heirs, executors, administrators, predecessors, successors, predecessors-in-interest, successors-in-interest and assigns of any of the foregoing.

(z) "Released Plaintiff's Claims" means, as against the Released Defendant Parties, Bioverativ, and Sanofi, to the fullest extent permitted by Delaware law in stockholder class action settlements, any and all manner of claims, including Unknown Claims (as defined herein), suits, actions, causes of actions, demands, liabilities, losses, rights, obligations, duties, damages, diminution in value, disgorgement, debts, costs, expenses, interest, penalties, fines, sanctions, fees, attorneys' fees, expert or consulting fees, agreements, judgments, decrees, matters, allegations, issues, and controversies of any kind, nature, or description whatsoever, whether known or unknown, disclosed or undisclosed, accrued or unaccrued, apparent or unapparent, foreseen or unforeseen, matured or unmatured, suspected or



unsuspected, liquidated or unliquidated, fixed or contingent, whether based on state, local, federal, foreign, statutory, regulatory, common, or other law or rule that, (i) were alleged, asserted, set forth, or claimed in the Action or the §220 Action, or (ii) could have been alleged, asserted, set forth, or claimed in the Action or the §220 Action or in any other action or in any other court, tribunal, or proceeding by Plaintiff or any other member of the Class individually, on behalf of the Class directly, or on behalf of Bioverativ derivatively, and that are based upon, arise out of, or relate to (1) the Acquisition or (2) any allegations, transactions, facts, matters, disclosures, representations, or omissions involved or referenced in the Complaint. Notwithstanding the above, (i) any claim to enforce the Stipulation or Judgment shall not be released as to the Settling Defendants, and (ii) the Non-Released Plaintiff's Claims shall not be released as to Denner, Sarissa Capital, and/or the Sarissa Parties and Affiliates.

(aa) "Non-Released Plaintiff's Claims" means the claims that Plaintiff asserts against Denner in Count III of the Complaint for breach of fiduciary duty and against Sarissa Capital in Count IV of the Complaint for aiding and abetting the breach of fiduciary duty alleged in Count III of the Complaint, based on Denner and Sarissa Capital's acquisition of 1,010,000 shares of Bioverativ common stock in May 2017 while allegedly in possession of material, non-public information, for money damages or equitable relief (including disgorgement of profits and improper

gains or benefits) in an amount not to exceed the difference between the consideration paid by Denner and Sarissa Capital for the 1,010,000 shares of Bioverativ common stock in May 2017 and the Acquisition Consideration of \$105.00 per share, plus any pre- and post-judgment interest thereon. Nothing in this Stipulation, the Judgment, or the Settlement shall prevent Plaintiff from presenting any evidence or making any arguments in support of proving that Denner and Sarissa Capital are liable for the Non-Released Plaintiff's Claims.

(bb) "Sanofi" means Sanofi S.A., its subsidiaries, and its affiliates.

(cc) "Sanofi's Counsel" means the law firm Weil, Gotshal & Manges LLP.

(dd) "Sarissa Capital" means Sarissa Capital Management, L.P., Sarissa Capital Domestic Fund LP, Sarissa Capital Offshore Master Fund LP, and Sarissa Capital Management GP LLC.

(ee) "Scheduling Order" means the scheduling order to be entered pursuant to Court of Chancery Rule 23, substantially in the form attached hereto as Exhibit A.

(ff) "Settlement" means the settlement contemplated by this Stipulation.

(gg) "Settlement Amount" means a total of \$84 million (\$84,000,000) in cash.

(hh) “Settling Defendants’ Counsel” means the law firms Paul, Weiss, Wharton, Rifkind & Garrison LLP; Goodwin Procter LLP; and Young Conaway Stargatt & Taylor, LLP.

(ii) “Settlement Fund” means the principal amount of \$84 million (\$84,000,000) in cash, plus any interest that may accrue on that sum after it is deposited in the Account.

(jj) “Settlement Hearing” means the hearing to be held by the Court to determine whether the proposed Settlement should be approved as fair, reasonable, and adequate, whether a Judgment approving the Settlement should be entered in accordance with the terms of this Stipulation, and whether and in what amount any award of attorneys’ fees and expenses should be paid to Plaintiff’s Counsel.

(kk) “Settlement Payment Recipients” means all Eligible Beneficial Owners and all Eligible Record Holders.

(ll) “Taxes” means all federal, state, and/or local taxes of any kind (including any interest or penalties thereon) on any income earned by the Settlement Fund.

(mm) “Tax Expenses” means the expenses and costs incurred in connection with the calculation and payment of Taxes or the preparation of tax returns and related documents, including expenses of tax attorneys and/or

accountants and mailing and distribution costs relating to filing (or failing to file) the returns described in Section VII.

(nn) “Unknown Claims” means any claims that a releasing Person does not know or suspect exists in his, her, or its favor at the time of the release of the Released Plaintiff’s Claims and Released Defendants’ Claims, which if known by him, her, or it, might have affected his, her, or its decision(s) with respect to the Settlement. With respect to any and all Released Plaintiff’s Claims and Released Defendants’ Claims, upon the Effective Date, Plaintiff and the Settling Defendants shall expressly waive, and each of the Class Members and Released Defendant Parties (other than the Sarissa Parties and Affiliates) shall be deemed to have waived, and by operation of the Judgment shall have expressly waived, relinquished, and released any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law or foreign law, which is similar, comparable, or equivalent to Cal. Civ. 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.

Plaintiff and the Settling Defendants acknowledge, and the Released Plaintiff Parties and the Released Defendant Parties (other than the Sarissa Parties and Affiliates) by

operation of law are deemed to acknowledge, that they may discover facts in addition to or different from those now known or believed to be true with respect to the Released Plaintiff's Claims and the Released Defendants' Claims, but that it is the intention of Plaintiff and the Settling Defendants, and by operation of law the Released Plaintiff Parties and the Released Defendant Parties (other than the Sarissa Parties and Affiliates), to completely, fully, finally, and forever extinguish any and all Released Plaintiff's Claims and Released Defendants' Claims, known or unknown, suspected or unsuspected, which now exist, or heretofore existed, or may hereafter exist, and without regard to the subsequent discovery of additional or different facts. Plaintiff and the Settling Defendants also acknowledge, and the Released Plaintiff Parties and the Released Defendant Parties (other than the Sarissa Parties and Affiliates) by operation of law are deemed to acknowledge, that the inclusion of "Unknown Claims" in the definition of Released Plaintiff's Claims and Released Defendants' Claims is separately bargained for and is a key element of the Settlement.

## **II. Settlement Fund**

### **A. The Settlement Fund**

1. In consideration for the full and final release, settlement, and discharge of Released Plaintiff's Claims and Released Defendants' Claims, Plaintiff, the Settling Defendants, Bioverativ, and Sanofi have agreed as follows:

(a) On behalf of the Settling Defendants, Bioverativ and Sanofi shall cause the entire Settlement Amount to be deposited into the Account. For the avoidance of doubt, the Settling Defendants shall bear no personal responsibility or liability to make any payment in connection with this Stipulation or the Settlement.

(b) The Settlement Amount shall be paid within ten (10) calendar days after the later of (a) approval and entry of the Scheduling Order by the Court, or (b) Plaintiff's Counsel's delivery to Sanofi's Counsel and the Settling Defendants' Counsel of all necessary wiring/payment information, a signed IRS Form W-9 reflecting a valid taxpayer identification number for the Account, and any other information reasonably requested to effectuate payment into the Account.

(c) All funds held in the Account shall be deemed and considered to be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to this Stipulation and/or further order(s) of the Court.

(d) The Settlement Fund shall be administered by the Administrator and the Escrow Agent and shall be used (i) to pay all Administrative Costs; (ii) to pay any Fee and Expense Award; (iii) to pay any Taxes and Tax Expenses; and (iv) following the payment of (i), (ii), and (iii) herein, for subsequent disbursement of the Net Settlement Fund to the Settlement Payment Recipients as provided in Section II herein and the Plan of Allocation as approved by the Court.

(e) Notwithstanding the fact that the Effective Date of the Settlement has not yet occurred, Plaintiff's Counsel may pay from the Settlement Fund, without order of the Court, all reasonable costs and expenses actually incurred in connection with Administrative Costs up to the sum of \$500,000, which shall include the costs of providing notice. Before the Effective Date, Administrative Costs in excess of \$500,000 may be paid from the Settlement Fund only with prior approval of the Court. In the event that the Settlement does not become Final, Administrative Costs paid out of the Settlement Fund shall not be returned or repaid to any person or entity who or which funded the Settlement Fund. After the Effective Date, Administrative Costs may be paid as incurred pursuant to an administrative order by the Court.

(f) For the avoidance of doubt: (i) neither Plaintiff, the Class Members, nor Plaintiff's Counsel shall seek any monetary relief as a condition of the Settlement other than payment of the Settlement Amount in accordance with ¶1(a) and (b); and (ii) the Released Defendant Parties, Bioverativ, and Sanofi shall have no liability or responsibility whatsoever in connection with the Settlement, the Settlement Fund, the investment or distribution of the Settlement Fund, the Net Settlement Fund, the administration or calculation of any payment from the Net Settlement Fund, the Plan of Allocation, Administrative Costs, Taxes, Tax Expenses, acts or omissions of the Administrator or the Escrow Agent, or the Action, except as specifically set forth herein.

## B. Distribution of the Settlement Fund

2. Subject to the approval of the Court, Plaintiff shall retain the Administrator to oversee the administration of the Settlement and distribution of the Settlement Fund.

3. As soon as practicable after the Effective Date, the Administrator shall distribute the Net Settlement Fund to the Settlement Payment Recipients as set forth in this Section II.B or as otherwise approved by the Court.

4. The Net Settlement Fund will be allocated and distributed on a per-share basis among the Settlement Payment Recipients (the “Initial Distribution”). Each Settlement Payment Recipient will receive a *pro rata* payment from the Net Settlement Fund equal to the product of (i) the number of “Eligible Shares” held by the Settlement Payment Recipient, where Eligible Shares are shares held by the Settlement Payment Recipient at closing and for which the Settlement Payment Recipient received Acquisition Consideration, and (ii) the “Per-Share Recovery” for the Settlement, which will be determined by dividing the total amount of the Net Settlement Fund by the total number of Eligible Shares. For the avoidance of doubt, the Net Settlement Fund will be paid to the holders of Bioverativ common stock who were paid the Acquisition Consideration because their shares were tendered in the Tender Offer or were converted into the right to receive Acquisition Consideration pursuant to the terms of the Merger Agreement, other than Excluded Persons.



5.

(a) The Administrator shall promptly, and no later than 20 calendar days after execution of this Stipulation, obtain from DTC a copy of the allocation report or any similar document or data used by DTC to distribute the Acquisition Consideration and any additional information necessary to identify all DTC Participants who received the Acquisition Consideration in exchange for Bioverativ common stock in connection with the Acquisition, the number of shares as to which each DTC Participant received payment (and/or the amount of consideration each DTC Participant received), and the correct address or other contact information used to communicate with the appropriate representatives of each DTC Participant that received Acquisition Consideration (collectively, the “DTC Information”).

(b) No later than 20 calendar days after execution of this Stipulation, Bioverativ or Sanofi shall use commercially reasonable efforts to provide to the Administrator a copy of Bioverativ’s list of stockholders of record used by Bioverativ or Sanofi to distribute the Acquisition Consideration and any additional information necessary to identify all record holders of Bioverativ common stock who received the Acquisition Consideration in exchange for Bioverativ common stock in connection with the Acquisition, the number of shares as to which each record holder received payment (and/or the amount of consideration each record holder received), and the correct address or other contact information used to

communicate with the appropriate representatives of each record holder that received Acquisition Consideration (collectively, the “Record Holder Information”).

(c) The Settling Defendants, Settling Defendants’ Counsel, Bioverativ, and Sanofi, shall make commercially reasonable efforts to cooperate with Plaintiff’s Counsel and the Administrator as reasonably necessary to cause DTC to provide the DTC Information. The Administrator and, to the extent they obtain access to the DTC Information and the Record Holder Information, Plaintiff’s Counsel, shall use the DTC Information and the Record Holder Information solely for the purpose of administering the Settlement as set forth in this Stipulation, and not for any other purpose, and shall not disclose the DTC Information or the Record Holder Information to any other party except as necessary to administer the Settlement or as required by law.

6. With respect to Bioverativ common stock held of record at the closing by DTC through its nominee Cede, provided that the Administrator first receives the necessary DTC Information, the Administrator shall cause the relevant portion of the Net Settlement Fund to be allocated to Eligible Beneficial Owners who held their shares through DTC Participants by first distributing that portion of the Net Settlement Fund among the DTC Participants by paying each DTC Participant the Per-Share Recovery times its respective Closing Security Position (defined below). For each DTC Participant, the “Closing Security Position” means the number of

shares of Bioverativ common stock reflected on the DTC allocation report used by DTC to pay the Acquisition Consideration, less any shares that were held by an Excluded Person at the time of the Acquisition. The Administrator shall further take all appropriate steps to instruct DTC Participants to distribute the portion of the Net Settlement Fund that they receive to the Eligible Beneficial Holders on a *pro rata* basis in accordance with each Eligible Beneficial Owner's "Closing Beneficial Ownership Position," which means, for each Eligible Beneficial Owner, the number of shares of Bioverativ common stock beneficially owned by such Eligible Beneficial Owner as of closing, for which the Eligible Beneficial Owner received payment of the Acquisition Consideration, in a similar manner to that in which the DTC Participants paid the Acquisition Consideration in connection with the Acquisition. The Settling Defendants as to themselves, Settling Defendants' Counsel as to their respective clients, Bioverativ, and Sanofi shall make commercially reasonable efforts to cooperate with Plaintiff's Counsel and the Administrator to obtain information from the Excluded Persons and, as applicable, the relevant DTC Participants in order to ensure that no portion of the Net Settlement Fund is distributed to any Excluded Person, including information sufficient (a) to identify the number of shares of Bioverativ common stock beneficially owned by each Excluded Person as of closing, (b) to identify the DTC Participant or non-Cede record holder through which such shares were held as of closing, and (c) to enable

any relevant DTC Participant to identify and exclude from payment all shares of Bioverativ common stock beneficially owned by each Excluded Person as of closing (collectively, the “Excluded Person Information”).

7. With respect to Bioverativ common stock held of record at the closing of the Tender Offer and the Acquisition other than by Cede, as nominee for DTC (a “Closing Non-Cede Record Position”), provided that the Administrator first receives the necessary Record Holder Information, the Administrator will distribute the *pro rata* amount of the Net Settlement Fund attributable to the Eligible Record Holders by paying directly to each Eligible Record Holder an amount equal to the Per-Share Recovery times the number of shares of Bioverativ common stock comprising such Closing Non-Cede Record Position.

8. If there is any balance remaining in the Net Settlement Fund six (6) months after distribution of the Net Settlement Fund (whether by reason of tax refunds, uncashed checks, amounts returned by Excluded Persons who erroneously receive settlement payments, or otherwise), the Administrator shall, if feasible, distribute such balance among the Settlement Payment Recipients who received and deposited the initial distribution, in the same manner as the initial distribution. If the cost of making such a further distribution or distributions is unreasonably high relative to the amount remaining in the Net Settlement Fund, Plaintiff’s Counsel may file a motion for an administrative order instructing the Administrator to distribute

any balance which still remains in the Net Settlement Fund, after provision for all anticipated expenses, to the Delaware Combined Campaign for Justice. Neither the Released Defendant Parties nor their indemnitors or insurers shall have any reversionary interest in the Net Settlement Fund.

9. The Net Settlement Fund shall be distributed to Eligible Class Members only after the Effective Date of the Settlement and after all Notice and Administrative Costs, all Taxes and Tax Expenses, and any Fee and Expense Award have been paid from the Settlement Fund or reserved.

10. Payment pursuant to the Plan of Allocation or other such plan of allocation as may be approved by the Court shall be final and conclusive against all Class Members. Plaintiff, the Released Defendant Parties, Bioverativ, and Sanofi, and their respective counsel shall have no liability whatsoever for the determination, administration, or investment of the Settlement Fund or the Net Settlement Fund; the calculation or distribution of any payment from the Settlement Fund or Net Settlement Fund; the performance or nonperformance of the Administrator, Escrow Agent, any DTC Participants, or any nominee holding shares on behalf of a Class Member; the determination, administration, payment, or withholding of Taxes (including interest and penalties) owed by the Settlement Fund; or any losses incurred in connection with any of the foregoing.

11. The Settlement is not a claims-made settlement. Upon the occurrence of the Effective Date, the Settling Defendants, the Released Defendant Parties, and any other person or entity who or which paid any portion of the Settlement Amount shall have no right to the return of the Settlement Amount or any portion thereof for any reason whatsoever, including the inability to locate Class Members or the failure of Settlement Payment Recipients to deposit settlement funds distributed by the Administrator.

12. The Plan of Allocation proposed in this Stipulation is not a necessary term of the Settlement or of this Stipulation and it is not a condition of the Settlement or of this Stipulation that any particular plan of allocation be approved by the Court. No Party can cancel or terminate the Settlement (or this Stipulation) based on this Court's or any appellate court's ruling with respect to the Plan of Allocation or any other plan of allocation in this Action. The Settling Defendants shall not object in any way to the Plan of Allocation or any other plan of allocation in this Action and shall not have any involvement with the application of the Court-approved plan of allocation except as explicitly provided herein.

13. All proceedings with respect to the administration of the Settlement and distribution pursuant to the proposed Plan of Allocation or other such plan of allocation as may be approved by the Court shall be subject to the exclusive jurisdiction of the Court.

14. The Settling Defendants, Bioverativ, and Sanofi shall have no input, responsibility, or liability for any claims, payments, or determinations by the Administrator concerning the distribution of the Settlement Fund, except to provide information as required in ¶¶5 and 6 hereof.

**C. The Escrow Agent**

15. The Escrow Agent shall invest the Settlement Fund, deposited pursuant to ¶1 above, in instruments backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof, or in money funds holding only instruments backed by the full faith and credit of the United States Government, and shall reinvest the proceeds of these instruments at their then-current market rates. The Settlement Fund shall bear all risks related to investment of the Settlement Amount.

16. The Escrow Agent shall not disburse the Settlement Fund except as provided in this Stipulation, by an order of the Court, or with the written agreement of counsel for Plaintiff and the Settling Defendants.

17. Subject to further order and/or direction as may be made by the Court, the Escrow Agent is authorized to execute such transactions on behalf of the Class as are consistent with the terms of this Stipulation.

### **III. Scope of the Settlement**

18. Upon entry of the Judgment, the Action shall be dismissed with prejudice pursuant to Court of Chancery Rule 54(b) against (i) the Settling Defendants in full, and (ii) Denner as to Count I of the Complaint only. The Action shall not be dismissed against Denner or Sarissa Capital as to Counts III or IV of the Complaint, and Plaintiff will continue litigating the Non-Released Plaintiff's Claims against Denner and Sarissa Capital. The foregoing dismissals are without fees, costs, or expenses, except as expressly provided in this Stipulation. Nothing in this Stipulation, the Judgment, or the Settlement shall affect the Settling Defendants' entitlement to advancement or indemnification incurred in connection with the Action, the Settlement, and/or any claim that any Settling Defendant may have against any of his, her, or Bioverativ's insurers.

19. Upon the Effective Date, Plaintiff and each and every member of the Class, on behalf of themselves and any and all of their respective predecessors, successors, assigns, agents, representatives, trustees, executors, administrators, estates, heirs, and transferees, whether immediate or remote, shall and shall be deemed to fully, finally, and forever release, relinquish, settle, and discharge the Released Defendant Parties, Bioverativ, and Sanofi from and with respect to every one of the Released Plaintiff's Claims on the terms and conditions set forth herein, and shall thereupon be forever barred and enjoined from commencing, instituting,



instigating, facilitating, asserting, continuing, maintaining, participating in, or prosecuting any and all Released Plaintiff's Claims against the Released Defendant Parties, Bioverativ, or Sanofi. Notwithstanding the foregoing, nothing in this Stipulation, the Judgment or the Settlement shall preclude Plaintiff from presenting any evidence or making any arguments in support of proving that Denner and Sarissa Capital are liable for the Non-Released Plaintiff's Claims.

20. Upon the Effective Date, the Settling Defendants, on behalf of themselves and any other person or entity who could assert any of the Released Defendants' Claims on their behalf, and to the fullest extent permitted by law, including in light of the releases set forth in ¶19, the other Released Defendant Parties (other than the Sarissa Parties and Affiliates), shall or shall be deemed to, fully, finally, and forever release, settle, and discharge the Released Plaintiff Parties from and with respect to every one of the Released Defendants' Claims on the terms and conditions set forth herein, and shall thereupon be forever barred and enjoined from commencing, instituting, instigating, facilitating, asserting, continuing, maintaining, participating in, or prosecuting any of the Released Defendants' Claims against any of the Released Plaintiff Parties.

21. The Judgment shall contain a bar order ("Bar Order") in a form substantially similar to the following:

Upon the Effective Date, any claims (i) against any of the Settling Defendants, or (ii) by any of the Settling Defendants against any other

Person, in which the injury claimed is the claimant's actual or threatened liability to Plaintiff or any other Class Member, arising out of or relating to the subject matter of the Action, including without limitation any third party claims for contribution in accordance with 10 *Del. C.* § 6304 and any similar laws and statutes, are hereby barred; *provided, however*, that any claims by a Settling Defendant for advancement, indemnification, and insurance arising out of or relating to the Action shall not be barred.

22. The Settlement is executed in accordance with the provisions of 10 *Del. C.* § 6301, *et seq.*, of the Uniform Contribution Among Tortfeasors Act. Accordingly, Plaintiff agrees, and all other Class Members shall be deemed by operation of law to agree, pursuant to 10 *Del. C.* § 6304, that if any of the Settling Defendants are determined by the Court to be joint tortfeasors with Denner or Sarissa Capital for the Non-Released Plaintiff's Claims and jointly and severally liable for damages for the Non-Released Plaintiff's Claims, then damages jointly recoverable against any tortfeasor, will be reduced by the greater of (a) the Settlement Amount, and (b) the *pro rata* share of the responsibility or liability for such damages, if any, of the Settling Defendants. This language is intended to comply with 10 *Del. C.* § 6304(b) so as to preclude any liability of the Settling Defendants to any joint tortfeasor for contribution for the Non-Released Plaintiff's Claims.

#### **IV. Submission of the Settlement to the Court for Approval**

23. As soon as practicable after this Stipulation has been executed, Plaintiff and the Settling Defendants shall jointly apply to the Court for entry of the

Scheduling Order substantially in the form attached hereto as Exhibit A, providing for, among other things: (a) the dissemination of the Notice, which includes a Plan of Allocation, substantially in the form attached hereto as Exhibit B; and (b) the scheduling of the Settlement Hearing to consider: (i) the proposed partial Settlement; (ii) the joint request of the Parties that the Judgment be entered in all material respects in the form attached hereto as Exhibit C; (iii) Plaintiff's Counsel's Fee Application (defined below); and (iv) any objections to any of the foregoing. The Parties agree to take all reasonable and appropriate steps to seek and obtain entry of the Scheduling Order. If the Administrator does not receive, at least five business days before the scheduled date of the Settlement Hearing, the DTC Information, the Excluded Person Information, and the Record Holder Information, then Plaintiff's Counsel may seek a postponement or adjournment of the Settlement Hearing for a period reasonably sufficient for the Administrator to obtain the missing information; provided, however, that if the Settlement Hearing has been postponed or adjourned and the Administrator does not receive all of the DTC Information, the Excluded Person Information, and the Record Holder Information within six months of the date of this Stipulation, the Parties shall confer in good faith, including with respect to an alternative plan of allocation of the Settlement Fund to be presented to the Court, and seek to schedule as promptly as practicable the Settlement Hearing and obtain Court approval of the Stipulation and the Settlement.

24. The Parties and their attorneys agree to use their individual and collective best efforts to obtain Court approval of the Stipulation. The Parties and their attorneys further agree to use their individual and collective best efforts to effect, take, or cause to be taken all actions, and to do, or cause to be done, all things reasonably necessary, proper, or advisable under applicable laws, regulations, and agreements to consummate and make effective, as promptly as practicable, the Stipulation provided for hereunder and the entry of the Judgment. The Parties and their attorneys agree to cooperate fully with one another in seeking the Court's approval of this Stipulation, to jointly request at the Settlement Hearing that the Judgment be entered, and to take all reasonable and appropriate steps to obtain a Final Judgment in all material respects in the form attached hereto as Exhibit C.

25. If, before the Settlement becomes Final, any action is filed in any court, arbitration tribunal, administrative forum, or other forum of any kind asserting a Released Plaintiff's Claim, Plaintiff agrees to cooperate in good faith with any and all reasonable actions by the Settling Defendants, Bioverativ, and/or Sanofi seeking a stay or dismissal of such action or proceeding, and preventing and opposing entry of any interim or final relief in favor of the plaintiff in any such action or proceeding.

#### **V. Conditions of Settlement**

26. This Settlement shall be subject to the following conditions, which the Parties shall use their best efforts to effectuate:

(a) the entry of the Scheduling Order in all material respects in the form attached hereto as Exhibit A;

(b) the entry of the Judgment in all material respects in the form attached hereto as Exhibit C, including Releases substantially in the form set out herein, the Bar Order substantially in the form set out herein, and dismissal of the Action with prejudice as to the Settling Defendants;

(c) the certification of the Class as a non-opt-out class;

(d) the deposit of the Settlement Amount in the Account in accordance with ¶1; and

(e) the occurrence of the Effective Date.

## **VI. Attorneys' Fees and Expenses**

27. Plaintiff's Counsel will apply for a Fee and Expense Award in an aggregate amount not to exceed 25% of the Settlement Amount plus costs and expenses incurred in connection with the Action (the "Fee Application"), which application will be wholly inclusive of any request for attorneys' fees and expenses on behalf of any Class Member or his, her, or its counsel in connection with the Settlement.

28. Any award of attorneys' fees and expenses by the Court pursuant to the Fee Application (i.e., the Fee and Expense Award) shall be paid out of, and not be in addition to, the Settlement Fund.

29. The Fee and Expense Award shall be payable to Plaintiff's Counsel from the Settlement Fund immediately upon entry of an order by the Court granting the Fee and Expense Award. In the event that (i) the Effective Date does not occur, (ii) this Stipulation is disapproved, canceled, or terminated pursuant to its terms, (iii) the Settlement otherwise does not become Final for any reason, or (iv) the Fee and Expense Award is disapproved, reduced, reversed, or otherwise modified, as a result of any further proceedings, including any successful collateral attack, then Plaintiff's Counsel shall, within five (5) business days after Plaintiff's Counsel receives notice of any such failure of the Effective Date to occur, termination of this Stipulation, failure of the Settlement to become Final, or disapproval, reduction, reversal, or other modification of the Fee and Expense Award, return to the Account, as applicable, either the entirety of the Fee and Expense Award or the difference between the attorneys' fees and expenses awarded by the Court in the Fee and Expense Award, and any attorneys' fees and expenses ultimately and finally awarded on appeal, further proceedings on remand, or otherwise. For the avoidance of doubt, no Court order or reversal on appeal of any order concerning the Plan of Allocation or the Fee and Expense Award shall operate to terminate or cancel this Stipulation and/or the Settlement, or constitute grounds for termination or cancellation of this Stipulation and/or the Settlement.

30. The disposition of the Fee Application is not a material term of this Stipulation, and it is not a condition of this Stipulation that such application be granted or that any Fee and Expense Award be made. The Fee Application may be considered separately from the proposed Stipulation.

31. Plaintiff's Counsel warrants that no portion of any Fee and Expense Award shall be paid to Plaintiff or any Class Member, except as approved by the Court.

32. The Released Defendant Parties, Bioverativ, and Sanofi shall have no input into, or responsibility or liability for, the allocation by Plaintiff's Counsel of the Fee and Expense Award.

## **VII. Escrow Account and Taxes**

33. The Parties agree as follows:

(a) The Parties and the Escrow Agent agree to treat the Settlement Fund as being at all times a "qualified settlement fund" within the meaning of Treas. Reg. §1.468B-1, and the regulations promulgated thereunder. The Parties and the Escrow Agent further agree that the Settlement Fund shall be established pursuant to the Court's subject matter jurisdiction within the meaning of Treas. Reg. §1.468B-1(c)(1). In addition, the Escrow Agent shall timely make such elections as necessary or advisable to carry out the provisions of this ¶33, including the "relation-back election" (as defined in Treas. Reg. §1.468B-1) back to the earliest permitted date.

Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Escrow Agent to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.

(b) For the purpose of §1.468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the “administrator” (as defined in Treas. Reg. §1.468B-2(k)(3)) shall be the Escrow Agent. The Escrow Agent shall timely and properly file all informational and other federal, state, or local tax returns necessary or advisable with respect to the earnings on the Settlement Fund (including the returns described in Treas. Reg. §1.468B-2(k)). Such returns (as well as the elections described in ¶33(a) hereof) shall be consistent with this ¶33 and in all events shall reflect that all Taxes (including any estimated Taxes, interest, or penalties) on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided in ¶33(c) hereof.

(c) Taxes and Tax Expenses shall be treated as, and considered to be, a cost of administration of the Settlement Fund and shall be timely paid by the Escrow Agent out of the Settlement Fund without prior order from the Court, and the Escrow Agent shall be authorized (notwithstanding anything herein to the contrary) to withhold from distribution to Settlement Payment Recipients any funds necessary to pay such amounts, including the establishment of adequate reserves for



any Taxes and Tax Expenses (as well as any amounts that may be required to be withheld under Treas. Reg. §1.468B-2(1)(2)). Neither the Released Defendant Parties, Bioverativ, Sanofi, nor their counsel shall have any responsibility or liability for any Taxes, Tax Expenses, administration of Taxes and Tax Expenses, or any acts or omissions of the Escrow Agent (or its agents). The Parties hereto agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this ¶33.

### **VIII. Termination of Settlement; Effect of Termination**

34. The Settling Defendants (only with written consent from Sanofi and Bioverativ) or Plaintiff shall have the right (but not the obligation) to terminate the Settlement and this Stipulation by providing written notice of their election to do so to all other Parties within ten (10) business days of (a) the Court's declining to enter the Scheduling Order in any material respect; (b) the Court's declining to enter the Judgment approving the settlement, in any material respect; (c) modification or reversal of the Judgment approving the Settlement, in any material respect on or following reargument, reconsideration, rehearing, appellate review, remand, collateral attack, or other proceedings; or (d) failure to satisfy any of the other conditions of Section V.

35. Neither modification nor a reversal on appeal of the Fee and Expense Award or the Plan of Allocation shall be deemed a material modification of the

Judgment or this Stipulation, shall operate to terminate or cancel this Stipulation and/or the Settlement, or shall constitute grounds for termination or cancellation of this Stipulation and/or the Settlement.

36. If either: (a) the Effective Date does not occur, (b) this Stipulation is disapproved, canceled, or terminated pursuant to its terms, or (c) the Settlement otherwise does not become Final for any reason, then (i) the Settlement and this Stipulation (other than this Section, ¶29 and Sections IX-X) shall be canceled and terminated; (ii) any judgment entered in the Action and any related orders entered by the Court shall in all events be treated as vacated, nunc pro tunc; (iii) the releases provided under the Settlement shall be null and void; (iv) the fact of the Settlement shall not be admissible in any proceeding before any court or tribunal; (v) all proceedings respecting the Released Plaintiff's Claims shall revert to their status before the Settlement; (vi) the Parties shall proceed in all respects as if the Settlement and this Stipulation (other than this Section) had not been entered into by the Parties; and (vii) the Settlement Amount (including any accrued interest thereon in the Account), less any Administrative Costs and Taxes and Tax Expenses actually incurred and paid or payable, and including any Fee and Expense Award or portion thereof required to be returned to the Account by Plaintiff's Counsel pursuant to ¶29 above, shall be refunded by the Escrow Agent, within thirty (30) calendar days after such cancellation or termination, directly to the parties who made payments pursuant

to ¶1(a) in amounts set forth by Settling Defendants' Counsel and Sanofi's Counsel to the Escrow Agent.

### **IX. No Admission of Wrongdoing**

37. It is expressly understood and agreed that the Settling Defendants deny any and all allegations of wrongdoing, fault, breach of duty, liability, or damage in connection with the Action and the Settlement. Nothing in this Stipulation (whether or not consummated) shall be deemed or argued to be evidence of, or to constitute an admission or concession by the Settling Defendants, as to (i) the truth of any fact alleged by Plaintiff; (ii) the validity of any claims or other issues raised, or which might be or might have been raised, in the Action or in any other proceeding; (iii) the deficiency of any defense that has been or could have been asserted in the Action or in any other proceeding; or (iv) any wrongdoing, fault, negligence, or liability or any kind by any of them, which each of them expressly denies.

38. The Parties further mutually covenant that neither this Stipulation, nor the fact or any terms of the Settlement, or any communications relating thereto, is evidence of, or an admission or concession by Plaintiff, any Class Member, any Released Plaintiff Parties, the Settling Defendants, or any of the Released Defendant Parties of, any fault, liability, or wrongdoing whatsoever, or as to the validity or merit of any claim or defense alleged or asserted in any proceeding, including the Action. Accordingly, neither the Settlement, the Stipulation, any terms of this

Stipulation, any negotiations or proceedings in connection therewith, nor any documents or statements referred to herein or therein, (a) shall (i) be argued to be, used, or construed as, offered or received in evidence as, or otherwise constitute an admission, concession, presumption, proof, evidence, or a finding of any liability, fault, wrongdoing, injury, or damages, or of any wrongful conduct, act, or omission on the part of any of the Released Defendant Parties or Released Plaintiff Parties, or of any infirmity of any defense, or of any damage to Plaintiff or any other Class Member, or any lack of merit of any claim, or lack of damages to Plaintiff or any other Class Member, or (ii) otherwise be used to create or give rise to any inference or presumption against any of the Released Defendant Parties or Released Plaintiff Parties concerning any fact or any purported liability, fault, or wrongdoing of the Released Defendant Parties or Released Plaintiff Parties or any injury, or damages to any person or entity, or (b) shall otherwise be admissible, referred to, or used in any proceeding of any nature, for any purpose whatsoever; provided, however, that the Judgment may be introduced in any proceeding subject to Delaware Rule of Evidence 408 and any and all other state and federal law corollaries thereto, whether in the Court or otherwise, as may be necessary to argue and establish that the Judgment has res judicata, collateral estoppel, or other issue or claim preclusion effect or to otherwise consummate or enforce the Settlement and Judgment or to

secure any insurance rights or proceeds of any of the Released Defendant Parties or Released Plaintiff Parties or as otherwise required by law.

## **X. Miscellaneous Provisions**

39. Plaintiff, the Settling Defendants, Bioverativ, and Sanofi represent and agree that the terms of the Settlement were negotiated at arm's length and in good faith, with the assistance of the Honorable Layn R. Phillips of Phillips ADR as mediator, and reflect a settlement that was reached voluntarily based upon adequate information, sufficient discovery, and consultation with experienced legal counsel.

40. All of the exhibits attached hereto (the "Exhibits") are material and integral parts of the Stipulation, and shall be incorporated by reference as though fully set forth herein.

41. This Stipulation and the Exhibits constitute the entire agreement between Plaintiff, on the one hand, and the Settling Defendants, Bioverativ, and Sanofi, on the other hand, and supersede any prior agreements among Plaintiff, on the one hand, and the Settling Defendants, Bioverativ, and Sanofi, on the other hand, with respect to the Settlement. No representations, warranties, or inducements have been made to or relied upon by any party concerning this Stipulation or its Exhibits, other than the representations, warranties, and covenants expressly set forth in such documents.

42. This Stipulation is and shall be binding upon and shall inure to the benefit of the Released Defendant Parties, Bioverativ, Sanofi, the Released Plaintiff Parties (including the Class Members), and the respective legal representatives, heirs, executors, administrators, transferees, successors, and assigns of all such foregoing persons and entities and upon any corporation, partnership, or other entity into or with which any of the foregoing may merge, consolidate, or reorganize.

43. This Stipulation may not be amended or modified, nor may any of its provisions be waived, except by written instrument signed by Plaintiff's Counsel, the Settling Defendants' Counsel, and counsel for Sanofi and Bioverativ, or their successors-in-interest.

44. The waiver by Plaintiff, the Settling Defendants, Bioverativ, or Sanofi of any breach of this Stipulation shall not be deemed a waiver of any other prior or subsequent breach of any provision of this Stipulation.

45. Plaintiff represents and warrants that Plaintiff is a member of the Class and that none of Plaintiff's claims or causes of action referred to in this Stipulation has been assigned, encumbered, or otherwise transferred in whole or in part.

46. Each party represents and warrants that the party has made such investigation of the facts pertaining to the Settlement provided for in this Stipulation, and all of the matters pertaining thereto, and has been advised by counsel, as the party deems necessary and advisable.

47. Each counsel signing this Stipulation warrants that such counsel has been duly empowered and authorized to sign this Stipulation on behalf of his or her client(s).

48. The headings herein are used for the purpose of convenience only and are not meant to have legal effect.

49. This Stipulation shall not be construed more strictly against one party than another merely by virtue of the fact that it, or any portion of it, may have been prepared by counsel for one of the parties, it being recognized that it is the result of arm's-length negotiations between the parties, and all parties have contributed substantially and materially to the preparation of this Stipulation.

50. Without further Order of the Court, Plaintiff and the Settling Defendants (only with written consent from Sanofi and Bioverativ) may agree to reasonable extensions of time to carry out any of the provisions of this Stipulation.

51. To the extent permitted by law, all agreements made and orders entered during the course of the Action related to the confidentiality of documents or information shall survive this Stipulation.

52. This Stipulation may be executed in counterparts by electronic signature, email, PDF, fax, or original signature by any of the signatories hereto and as so executed shall constitute one agreement.

53. This Stipulation, the Settlement, and any and all disputes arising out of or relating in any way to this Stipulation or Settlement, whether in contract, tort, or otherwise, shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to conflict of law principles.

54. The consummation of the Settlement as embodied in this Stipulation shall be under the authority of the Court, and the Court shall retain jurisdiction for the purpose of entering orders providing for an award of attorneys' fees and expenses to Plaintiff's Counsel and enforcing the terms of this Stipulation.

55. Any action arising under or to enforce this Stipulation or any portion thereof shall be commenced and maintained only in the Court.

56. Plaintiff, the Settling Defendants, Bioverativ, and Sanofi agree that, in the event of any breach of this Stipulation, all of Plaintiff's, the Settling Defendants', Bioverativ's, and Sanofi's rights and remedies at law, equity, or otherwise are expressly reserved.



IN WITNESS WHEREOF, the parties by their undersigned attorneys have executed this Stipulation as of April 14, 2023.

PRICKETT, JONES & ELLIOTT, P.A.

OF COUNSEL:

ROBBINS GELLER RUDMAN  
& DOWD LLP

Randall J. Baron  
Rick T. Atwood  
655 West Broadway, Suite 1900  
San Diego, CA 92101  
(619) 231-1058

Christopher H. Lyons (#5493)  
414 Union Street, Suite 900  
Nashville, TN 37219  
(615) 244-2203

JOHNSON FISTEL, LLP

Brett Middleton  
655 West Broadway, Suite 1400  
San Diego, CA 92101  
(619) 230-0063

By: /s/ Kevin H. Davenport

Kevin H. Davenport (#5327)  
John G. Day (#6023)  
Jason W. Rigby (#6458)  
1310 King Street  
Wilmington, Delaware 19801  
(302) 888-6500

COOCH & TAYLOR P.A.

R. Bruce McNew (#967)  
1007 N. Orange Street, Suite 1120  
Wilmington, DE 19801  
(302-984-3810)

*Attorneys for Plaintiff*

PAUL, WEISS, RIFKIND,  
WHARTON & GARRISON LLP

OF COUNSEL:

PAUL, WEISS, RIFKIND,  
WHARTON & GARRISON LLP  
Lewis R. Clayton  
Geoffrey R. Chepiga  
Daniel J. Juceam  
1285 Avenue of the Americas  
New York, NY 10019-6064  
(212) 373-3000

By: /s/ Matthew D. Stachel  
Matthew D. Stachel (#5419)  
500 Delaware Avenue, Suite 200  
Post Office Box 32  
Wilmington, DE 19899-0032  
(302) 655-4410

*Counsel for Defendants Anna  
Protopapas, Brian S. Posner, Louis J.  
Paglia, and Geno J. Germano*

YOUNG CONAWAY STARGATT &  
TAYLOR, LLP

OF COUNSEL:

GOODWIN PROCTER LLP  
Deborah S. Birnbach  
John A. Barker  
100 North Avenue  
Boston, MA 02210  
(617) 570-1000

By: /s/ Elena C. Norman  
Elena C. Norman (#4780)  
Lauren Dunkle Fortunato (#6031)  
Rodney Square, 1000 North King St.  
Wilmington, DE 19801  
(302) 571-6600

*Counsel for Defendants John G. Cox,  
Andrea DiFabio, and John T. Greene*

WEIL, GOTSHAL & MANGES LLP

By: /s/ John Neuwirth  
John Neuwirth  
Stefania Venezia  
767 Fifth Avenue  
New York, NY 10153-0119  
(212) 310-8000

*Counsel for Non-Parties Sanofi S.A. and  
Bioverativ Inc.*