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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

In re VAXART, INC. SECURITIES
LITIGATION

Case No. 3:20-cv-05949-VC

CLASS ACTION

*This Document Relates to:
ALL ACTIONS*

Judge: Hon. Vince Chhabria

**STIPULATION AND ~~PROPOSED~~ ORDER APPROVING THE FORM AND MANNER
OF NOTICE TO THE CLASS AND SUBCLASS**

1 WHEREAS, on December 17, 2024, the Court certified a Class of “all persons or entities
2 who purchased or otherwise acquired publicly traded Vaxart common stock, or purchased call
3 options or sold put options thereon, between June 25, 2020, and July 24, 2020, inclusive, and were
4 damaged thereby.” Order Granting Motion for Class Certification, ECF No. 431 at 4–5 (Dec. 17,
5 2024) (“Certification Order”).

6 WHEREAS, the Court also certified a Subclass of “all persons or entities who purchased
7 publicly traded Vaxart common stock contemporaneously with the June 26 and 29, 2020, sales of
8 Vaxart common stock by the Armistice defendants and were damaged thereby.” *Id.*;

9 WHEREAS, the Court appointed plaintiffs Wei Huang, Langdon Elliott, and Ani
10 Hovhannisyan as Class Representatives, and Hagens Berman Sobol Shapiro LLP and Scott+Scott
11 Attorneys at Law LLP as Class Counsel. *Id.* at 5;

12 WHEREAS, Class Counsel and counsel for the Defendants have met and conferred
13 regarding the appropriate form and manner of notice that should be provided to the Class and
14 Subclass, and as part of that process have given careful consideration to the requirements of Fed.
15 R. Civ. P. 23(c)(2)(B), which provides that a class notice “must clearly and concisely state in plain,
16 easily understood language:

- 17 (i) the nature of the action;
18 (ii) the definition of the class certified;
19 (iii) the class claims, issues, or defenses;
20 (iv) that a class member may enter an appearance through an attorney if the member so
21 desires;
22 (v) that the court will exclude from the class any member who requests exclusion;
23 (vi) the time and manner for requesting exclusion; and
24 (vii) the binding effect of a class judgment on members under Rule 23(c)(3).”

25 Fed. R. Civ. P. 23(c)(2)(B)(i-vii).

26 WHEREAS, Rule 23 gives district courts broad discretion in fashioning the forms of notice
27 to a class, *Mendoza v. Tucson Sch. Dist. No. 1*, 623 F.2d 1338, 1350–51 (9th Cir. 1980);
28

1 WHEREAS, counsel for both sides have reviewed the accompanying Declaration of Adam
 2 D. Walter in Support of entry of an Order Approving the Form and Manner of Notice to the Class
 3 and Subclass, dated May 14, 2025 (“Walter Declaration”) regarding the proposed manner of giving
 4 notice (the “Notice Program”), which provides in sum for (a) posting of a copy of the detailed
 5 notice on a dedicated website, and (b) issuing a more summary form of notice through a
 6 combination of email, individualized postcard mail sent via U.S. mail, and publication notice, all
 7 of which will direct the reader to the dedicated website for more detailed information;

8 WHEREAS, Plaintiffs assert that use of this type of notice program is regularly approved
 9 by federal courts in numerous class actions, and has been found to satisfy all applicable
 10 requirements under due process and Rule 23 for giving class members here “the best notice that is
 11 practicable under the circumstances, including individual notice to all members who can be
 12 identified through reasonable effort.” Fed. R. Civ. P. 23(c)(2)(B); *see also generally Nitsch v.*
 13 *Dreamworks Animation SKG Inc.*, No. 14-cv-04062, 2016 WL 4424965, at *4 (N.D. Cal. July 6,
 14 2016) (approving plan to distribute summary notice by email where possible, and by postcard
 15 where not possible, where summary notice further directed class members to a dedicated website
 16 for more detailed notice); *Sansone v. Charter Commc’ns, Inc.*, No. 17-CV-1880-WQH-JLB, 2023
 17 WL 9051463, at *2 (S.D. Cal. Aug. 21, 2023) (approving proposed plan to distribute notice by
 18 postcard directing class members to a dedicated website with more detailed notice) (citing cases).¹

19 WHEREAS, Plaintiffs respectfully submit that the prior work of A.B. Data, Ltd. (“A.B.
 20 Data”), in connection the prior partial settlement in this Action, and the expected efficiencies that
 21 will flow from the past experience (*e.g.*, in connection with collecting numerous Class members’
 22 email addresses), support its appointment as notice administrator in this phase of the litigation, and
 23 counsel for defendants do not oppose this appointment;

24 _____
 25 ¹ *See also* Fed. R. Civ. P. 23(c)(2)(B) (“The notice may be by one or more of the following:
 26 United States mail, electronic means, or other appropriate means”); *McCurley v. Royal Seas*
 27 *Cruises, Inc.*, No. 17-cv-00986-BAS, 2019 WL 3817970, at *4 (S.D. Cal. Aug. 14, 2019)
 28 (approving postcard notice); *Walker v. Life Ins. Co. of the Sw.*, No. CV 10-9198 JVS, 2021 WL
 1220692, at *4–5 (C.D. Cal. Feb. 22, 2021) (approving postcard notice combined with dedicated
 website); *Utne v. Home Depot U.S.A., Inc.*, No. 16-cv-01854-RS, 2018 WL 11373654, at *1 (N.D.
 Cal. Aug. 21, 2018) (same); *Graham v. Cap. One Bank (USA), N.A.*, No. SACV 13-743-JLS, 2014
 WL 12579809, at *7–8 (C.D. Cal. July 29, 2014) (same).

1 IT IS HEREBY STIPULATED AND AGREED, by the parties, through their undersigned
2 counsel, and subject to court approval, that:

3 1. The Court approves, as to form and content pursuant to Fed. R. Civ. P. 23(c)(2)(B),
4 the Summary Notice of Class Certification (“Summary Notice”), and the Detailed Notice of Class
5 Certification (“Detailed Notice”), in substantially in the form attached as Exhibits 1 and 2,
6 respectively, to the accompanying Walter Declaration, dated May 14, 2025.

7 2. The Court appoints A.B. Data to serve as the notice administrator to implement the
8 Notice Plan set out in the Walter Declaration and approved herein.

9 3. The process of disseminating the Summary Notice shall begin within 10 business
10 days of the latter of (i) the Court’s approval of this Stipulation and [Proposed] Order, and (ii) the
11 entry of the resulting Order on the docket (“Notice Date”). A.B. Data shall send the Summary
12 Notice email to each Class Member for whom or which it has an email address on record. A.B.
13 Data shall mail the Summary Notice postcard to each Class Member for whom or which it has a
14 last-known address but no email address on record. Further, for each Class Member for whom or
15 which the Summary Notice email is undeliverable, A.B. Data shall send the Summary Notice
16 postcard to the last-known available address, if available.

17 4. As soon as practicable after the Notice Date, A.B. Data shall provide notice to
18 Nominees as further set out in the Walter Declaration. The Court approves, as to form and content,
19 the cover letter to Nominees, in substantially the form attached as Exhibit 3 to the Walter
20 Declaration. Nominees who identify additional beneficial owner Class Members whose names
21 and addresses were not previously provided to A.B. Data in connection with the prior Settlement
22 Notice shall either: (i) within seven (7) calendar days of receipt of the Summary Notice, request
23 from A.B. Data sufficient copies of the Summary Notice to forward to all such additional beneficial
24 owners, which the Nominee shall, within seven (7) calendar days of receipt of those Summary
25 Notices from A.B. Data, mail or email to the beneficial owners; or (ii) within seven (7) calendar
26 days of receipt of the Summary Notice, provide a list of the names and addresses of all such
27 additional beneficial owners to A.B. Data. Nominees who elect to send the Summary Notice to
28 their beneficial owners shall also send a statement to A.B. Data confirming that the mailing or

1 email was made and shall retain their records for use in connection with any further notices that
2 may be provided in the Action.

3 5. As soon as practicable after the Notice Date, A.B. Data shall issue the Summary
4 Notice once in the form of a press release through *Business Wire*.

5 6. On or before the Notice Date, A.B. Data shall cause the Detailed Notice and
6 Summary Notice, the Corrected Second Amended Consolidated Complaint (“Complaint”),
7 Armistice Defendants’ Answer to the Complaint, the Court’s Order Granting Class Certification,
8 Armistice Defendants’ Motion for Summary Judgment (the “Summary Judgment Motion”), and
9 Plaintiffs’ Opposition to the Summary Judgment Motion to be posted on the Vaxart Litigation
10 Website (www.VaxartSecuritiesLitigation.com).

11 7. The Court finds that the distribution of the Notice as described herein constitutes
12 the best notice practicable under the circumstances, including individual notice to all members of
13 the Class and Subclass who can be identified through reasonable effort, and constitutes valid, due,
14 and sufficient process, complying fully with the requirements of Rule 23 of the Federal Rules of
15 Civil Procedure and due process.

16 8. Any Person falling within the definition of the Class (or the included Subclass) may
17 request to be excluded from the Class (“Request for Exclusion”). A Request for Exclusion must
18 comply with the requirements set forth in the Summary Notice and Detailed Notice; namely:

19 To exclude yourself, you must send a written request stating that you “request to be
20 excluded from the Class in *In re Vaxart Securities Litigation*.” To be valid, your
21 request must also include your name, address, telephone number, your signature,
22 and ***copies*** of documents (do not send originals) sufficient to show how many shares
23 of Vaxart common stock (and how many put or call options, if any) you purchased
24 and/or sold between June 25 and July 24, 2020, inclusive. You must submit your
25 exclusion request so that it is received no later than [DATE]. There are three ways
26 to submit your exclusion request: (i) mail it to Vaxart Securities Litigation,
27 EXCLUSIONS, c/o A.B. Data, Ltd., P.O. Box 173001, Milwaukee, WI 53217; (ii)
28 submit it on the web portal accessible at www.VaxartSecuritiesLitigation.com; or
(iii) email it to exclusion@vaxartsecuritieslitigation.com. Unless otherwise ordered
by the Court, your exclusion request must comply with the above requirements to
be valid. **Please note that you cannot exclude yourself on the phone.**

9. Unless the Court orders otherwise, a Request for Exclusion that does not include
all of the foregoing information, that does not contain the proper signature, that is sent to an address
other than the one designated in the Summary Notice and Detailed Notice, or that is not sent within

the time specified, shall be invalid. The Person(s) submitting such an invalid request shall be a Class Member and shall be bound by any orders or judgments entered in this Action.

10. All Persons who submit valid and timely Requests in the manner set forth in this Order (and in the Summary Notice and Detailed Notice) shall be excluded from the Class, shall be excluded from the rulings ordered for the Class as a whole, and shall be excluded from any Final Judgment.

11. Any Class Member may enter an appearance in the Action, at their own expense, individually or through counsel of their own choice.

12. To the extent practicable, Class Counsel shall cause A.B. Data to post any Court-ordered changes of schedule or any modifications of deadlines to be published promptly on the Vaxart Litigation Website.

SO STIPULATED AND AGREED:

DATED: May 23, 2025

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22 *Class Counsel*

23 **ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(I)(3)**

24 I, Reed R. Kathrein, am the ECF User whose identification and password are being used
25 to file this STIPULATION AND [PROPOSED] ORDER APPROVING THE FORM AND
26 MANNER OF NOTICE TO THE CLASS AND SUBCLASS. In compliance with Civil Local
27 Rule 5-1(i)(3), I hereby attest that all signatories have concurred in this filing.

28 DATED: May 23, 2025

By: /s/ Reed R. Kathrein
REED R. KATHREIN

~~PROPOSED~~ ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: May 27, 2025


Hon. Vince Chhabria
United States District Judge