



**GRANTED**

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

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IN RE GENENTECH, INC. : CONSOLIDATED  
SHAREHOLDERS LITIGATION : CIVIL ACTION NO. 3911-VCS  
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**SECOND STIPULATION AND AGREEMENT RESOLVING CERTAIN ISSUES**

WHEREAS, on February 9, 2009, Roche Investments USA Inc. (collectively, with Roche Holdings, Inc. and its subsidiaries and affiliates, “Roche”) announced a cash tender offer for all of the outstanding publicly held shares of Genentech, Inc. (“Genentech”) at \$86.50 per share (as amended, the “Offer”) and filed a Schedule TO with the Securities and Exchange Commission;

WHEREAS, on February 19, 2009, co-lead plaintiffs Alameda County Employees’ Retirement Association, City of Edinburgh Council as Administering Authority for the Lothian Pension Fund, and Montgomery County Employees’ Retirement Fund (“Plaintiffs”) filed a motion seeking to preliminarily enjoin Roche from taking any action to consummate the Offer (the “Motion”);

WHEREAS, on March 6, 2009, Roche announced that it had increased the Offer price from \$86.50 per share to \$93.00 per share and extended the expiration of the Offer until midnight, New York City time, on March 20, 2009;

WHEREAS, on March 9, 2009, a hearing was held on the Motion (the “Hearing”), and the Court reserved decision pending further information from counsel as stated on the record;

WHEREAS, after the Hearing, counsel prepared language (attached hereto as Exhibit A, “Supplemental Disclosures”) to be included in an amendment to its Schedule TO;

NOW, THEREFORE, it is hereby stipulated and agreed, by and among the undersigned parties, through counsel, as follows:

1. Counsel for Plaintiffs and the Special Committee, on behalf of their respective clients, have reviewed the Supplemental Disclosures and agree that those disclosures and procedures described therein, which Roche and the Special Committee hereby agree to implement, moot Plaintiffs’ application for preliminary injunctive relief.
2. Roche agrees to publish the Supplemental Disclosures and this Stipulation, in accordance with any applicable SEC reporting guidelines, to Genentech’s stockholders as soon as reasonably practicable after the Court shall enter the Stipulation as an order of the Court.
3. Counsel for Plaintiffs, Roche, and the Special Committee agree, on behalf of their respective clients, that the appraisal or quasi-appraisal procedure outlined in the Supplemental Disclosures (whichever applicable) will moot issues Plaintiffs have raised concerning the efficacy of appraisal rights in light of Roche’s proposed short-form merger and the banker valuation described in the Affiliation Agreement.
4. Plaintiffs withdraw their Motion.
5. Counsel for Plaintiffs and Roche agree that Roche’s counsel will consult with Plaintiffs’ counsel regarding the contents of disclosures made to stockholders regarding appraisal rights and quasi-appraisal rights.

6. Counsel for Plaintiffs, Roche, and the Special Committee, on behalf of their respective clients, agree that, except as specifically provided herein, the parties have not waived and shall not be deemed to have waived, any claims or defenses available to them.

BY DEFENDANTS:

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*Co-Lead Counsel for Plaintiffs*

SO ORDERED this\_\_day of March 2009

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Vice Chancellor Leo E. Strine, Jr.

This document constitutes a ruling of the court and should be treated as such.

**Court:** DE Court of Chancery Civil Action

**Judge:** Leo E Strine

**File & Serve**

**Transaction ID:** 24152490

**Current Date:** Mar 11, 2009

**Case Number:** 3911-VCS

**Case Name:** CONF ORDER CONS W/3912 3915 3922 3924 3927 3929 3947 3956-VCS In Re Genentech  
Inc Shareholder Litigation

/s/ **Judge Leo E Strine**