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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

In re DYNAVAX SECURITIES LITIGATION
This Document Relates To: ALL ACTIONS

Case No. 3:13-CV-02796-CRB
~~PROPOSED~~ **CLASS DISTRIBUTION ORDER**
CONSOLIDATED CLASS ACTION

1 WHEREAS:

2 A. Lead Plaintiff Khaled Khalafallah and Plaintiff Ron Franklin (collectively
3 “Plaintiffs”) and Defendants Dynavax Technologies Corporation, Dino Dina, J. Tyler Martin, Mark
4 Kessel, Symphony Capital partners, L.P., Symphony Capital GP, L.P., Symphony GP, LLC, and
5 Symphony Strategic Partners, LLC (collectively “Defendants”) entered into a Stipulation of
6 Settlement dated September 7, 2016 (the “Stipulation”), which provides for a settlement of this
7 Action (the “Settlement”);

8 B. Unless otherwise defined in this Order, the capitalized terms herein shall have the
9 same meaning as they have in the Stipulation;

10 C. The Court entered the Final Order and Judgment (“Final Approval Order”) on
11 February 6, 2017 approving the Settlement under the terms set forth in the Stipulation;

12 D. The Court reserved jurisdiction, without affecting the finality of the Final Approval
13 Order, over Defendants and the Class Members for purposes of the administration, interpretation,
14 and enforcement of the Stipulation and of the Final Approval Order;

15 E. The Settlement has reached its Effective Date, pursuant to the terms of the
16 Stipulation;

17 F. Plaintiffs, by motion dated September 1, 2017, moved this Court for an order
18 approving the determinations of the Court-appointed Claims Administrator, Garden City Group,
19 LLC (“GCG” or “Claims Administrator”) and directing distribution of the Net Settlement Fund, and
20 approving the reimbursement of administrative expenses; and

21 WHEREAS, the Court has duly considered Plaintiffs’ motion and memorandum of law
22 submitted in support thereof, the Declaration of Stephen J. Cirami in Support of Motion for
23 Distribution of Net Settlement Fund (“Cirami Distribution Declaration”) with annexed exhibits, and
24 all of the submissions and arguments presented therewith.

25 NOW, THEREFORE, after due deliberation, IT IS ORDERED, ADJUDGED AND
26 DECREED that:

27 1. This Order incorporates by reference the definitions in the Stipulation, and all
28

1 capitalized terms used herein shall have the same meanings as set forth in the Stipulation, unless
2 otherwise defined.

3 2. The motion is granted in its entirety and the Court approves the administrative
4 determinations of GCG in accepting and rejecting the Proof of Claim and Release Forms
5 (“Claims”).

6 3. The Net Settlement Fund established by the Settlement of this Action shall be
7 distributed to Authorized Claimants according to the determinations of the Claims Administrator
8 and consistent with the Stipulation previously approved by this Court on February 6, 2017.

9 4. Otherwise eligible Claims that were submitted after the March 22, 2017 Claims
10 submission deadline but received on or before July 20, 2017 are hereby deemed timely and shall be
11 included in the distribution.

12 5. Any Claims that are received after July 20, 2017 or any response to a deficiency or
13 rejection letter received after July 20, 2017 are hereby rejected as untimely and shall not be
14 accepted.

15 6. Ineligible or otherwise deficient Claims are hereby rejected.

16 7. All distribution checks shall bear the notation: “CASH PROMPTLY, VOID AND
17 SUBJECT TO RE-DISTRIBUTION IF NOT CASHED WITHIN 90 DAYS AFTER ISSUE
18 DATE.”

19 8. If any balance remains in the Net Settlement Fund six months after the first
20 distribution of the Net Settlement Fund to Authorized Claimants (the “Initial Distribution”), such
21 funds shall be used: (i) first, to pay any amounts omitted from the Initial Distribution to Authorized
22 Claimants or to pay any late, but otherwise valid and fully documented claims received after the
23 cut-off date used to make the Initial Distribution, which were not previously authorized by the
24 Court to be paid, provided that such distributions to any late post-distribution claimants meet all of
25 the other criteria for inclusion in the Initial Distribution, including the \$10.00 minimum check
26 amount set forth in the Notice; (ii) second, to pay any additional notice and administration costs
27 incurred in administering the Settlement; and (iii) finally, to make a second distribution to

1 Authorized Claimants who cashed their checks from the Initial Distribution and who would receive
2 at least \$10.00 from such second distribution, after payment of the estimated costs or fees to be
3 incurred in administering the Net Settlement Fund and in making this second distribution, if such
4 second distribution is economically feasible.

5 9. Garden City may destroy the paper copies of the Claims and all related
6 documentation one (1) year after the Initial Distribution, and may destroy electronic copies of the
7 Claims three (3) years after the Initial Distribution.

8 10. The Court hereby authorizes payment from the Settlement Fund of \$249,987.67 to
9 the Claims Administrator.

10 11. The Court retains jurisdiction to consider any further applications concerning the
11 administration of the Settlement, and such other and further relief as this Court deems appropriate.

12 IT IS SO ORDERED

13 Dated: San Francisco, California

14
15 _____, November 6, 2017

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17 

18 _____
19 Honorable Charles R. Breyer
20 United States District Judge
21 Northern District of California