

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

ARBUTUS BIOPHARMA CORPORATION)
and GENEVANT SCIENCES GmbH,)
)
Plaintiffs,)
)
v.) C.A. No. 22-252-MSG
)
MODERNA, INC. and MODERNATX, INC.,)
)
Defendants.)

STIPULATION AND ORDER REGARDING SEALED FILINGS

WHEREAS, the Stipulated Protective Order requires filings submitted under seal to “be accompanied by a motion to seal, in compliance with *In re Avandia, Mktg., Sales Practices, & Products Liab. Litig.*, 924 F.3d 662 (2019)” (D.I. 91 ¶ 10.1);

WHEREAS, under the Scheduling Order, certain documents must be filed on short notice, including, but not limited to, discovery dispute letters and letter briefs regarding motions to amend or to strike (D.I. 72 ¶¶ 7(g), 8(a), and 8(b));

WHEREAS, certain other submissions may contain one or more parties’ confidential information, which may require coordination with the opposing side to prepare motions to seal with supporting declarations, including, but not limited to, claim construction, dispositive motions, and *Daubert* motions (D.I. 72 at ¶¶ 12, 14, and 15); and

WHEREAS, the parties have agreed on a procedure to allow additional time for the filing of documents containing confidential information and any related motions to seal to allow the parties to confer on whether sealing can be avoided by excerpting exhibits or otherwise modifying the submission;

NOW THEREFORE, the parties hereby stipulate and agree, subject to the approval of the Court, to the following procedures for the service and filing of documents including, but not limited to, discovery dispute letters, motions to amend, motions to strike, and other dispositive and non-dispositive submissions:

1. Any submission that potentially includes confidential information shall be initially served but not filed. The deadline for any response shall be calculated from the day of service, which shall be determined in accordance with the Court's 5:00 p.m. ET filing deadline.
2. Once served, the opposing party has one business day to propose any redactions or excerpting to remove unnecessary confidential information. The submission will then be filed no more than two business days after service.
3. Should the submission require filing under seal, a motion to seal will be due no more than 3 business days after the filing and shall include any proposed redactions. If no party has moved for sealed treatment by that time, the parties shall notify the Court that the filing may be unsealed. If a sealed filing contains both parties' confidential information, they may file a joint motion to seal.
4. Emergency motions may be filed under seal immediately. Thereafter, any party desiring to maintain it under seal may file a motion to seal within 5 business days and shall include any proposed redactions. If no party has moved for sealed treatment by that time, the parties shall notify the Court that the filing may be unsealed.

Paragraph 10.1 of the Stipulated Protective Order, and Paragraphs 7 and 8 of the Scheduling Order are hereby amended accordingly.

/s/ Nathan R. Hoeschen

John W. Shaw (No. 3362)
Karen E. Keller (No. 4489)
Nathan R. Hoeschen (No. 6232)
Emily S. DiBenedetto (No. 6779)
SHAW KELLER LLP
I.M. Pei Building
1105 North Market Street, 12th Floor
Wilmington, DE 19801
(302) 298-0700
jshaw@shawkeller.com
kkeller@shawkeller.com
nhoeschen@shawkeller.com
edibenedetto@shawkeller.com
Attorneys for Plaintiffs

Dated: November 13, 2023

SO ORDERED this 14th day of November, 2023.

/s/ Travis J. Murray

Jack B. Blumenfeld (No. 1014)
Brian P. Egan (No. 6227)
Travis J. Murray (No. 6882)
MORRIS, NICHOLS, ARSHT & TUNNELL LLP
1201 North Market Street
P.O. Box 1347
Wilmington, DE 19899
(302) 658-9200
jblumenfeld@morrisnichols.com
began@morrisnichols.com
tmurray@morrisnichols.com
Attorneys for Defendants

/s/ Mitchell S. Goldberg
UNITED STATES DISTRICT JUDGE