

EXHIBIT A

MODERNA, INC. and MODERNATX, INC.)

Defendants.)

MODERNA, INC. and MODERNATX, INC.,)

Counterclaim-Plaintiffs,)

v.)

ARBUTUS BIOPHARMA CORPORATION)
and GENEVANT SCIENCES GmbH,)

Counterclaim-Defendants.)

**DECLARATION OF CHANTAL FRIEBERTSHÄEUSER
IN SUPPORT OF MODERNA'S MOTION TO SEAL**

familiar with the extensive efforts Moderna takes to protect its confidential information. I have personal knowledge of the facts stated in this declaration or have become aware of such facts through my role at Moderna. If called upon to testify, I could and would competently testify thereto.

2. I write this declaration in support of Moderna's request to avoid disclosure of sensitive and confidential information on the public record. I discuss below how and why Moderna keeps certain information confidential, and the serious harm that would result to Moderna from disclosure of this information to Moderna's competitors.

3. I have been provided and have reviewed the information that Moderna proposes to redact from Plaintiffs' Motion to Compel (D.I. 331) ("Plaintiffs' Motion") and Moderna's Opposition to Plaintiffs' Motion to Compel (D.I. 345) ("Moderna's Opposition"), as well as supporting documents. Specifically, Plaintiffs' Motion and Exhibits 2-3 and 5-15 thereto as well as Moderna's Opposition and Exhibits B and C thereto contain Moderna confidential information. These documents reflect Moderna highly sensitive business information regarding Moderna's COVID-19 vaccine.

¹ I understand that the Protective Order in this case (D.I. 91) includes two categories of Protected Material: "Confidential" and "Highly Confidential – Outside Counsel's Eyes Only." I understand that Plaintiffs' Motion and Exhibits 2-3 and 5-15 thereto as well as Moderna's Opposition and Exhibits B and C thereto include both categories of Protected Material. For the purposes of this declaration, I have used the term "confidential" to cover both categories, neither of which should be disclosed to the public for the reasons explained herein.

their employment and are provided guidance regarding how to treat sensitive information. Specifically, confidential Moderna information is not to be disclosed outside of Moderna except under confidentiality agreement and when necessary. Documents containing such information may be marked as confidential or otherwise indicate they contain restricted or sensitive information. Internal to Moderna, employee access to commercially sensitive and trade secret information is often restricted on a need-to-know basis, as determined by a person's group or role on a project. Moderna has been extremely concerned about the protection of its confidential information during this litigation and has been very careful to always protect this information.

5. Moderna's proposed redactions seek to seal portions of Plaintiffs' Motion and Exhibits 2-3 and 5-15 thereto as well as Moderna's Opposition and Exhibits B and C thereto, which refer to, quote, summarize, or otherwise disclose Moderna's highly sensitive and confidential business and technical information. Specifically, the information on the following pages of Plaintiffs' Motion and Exhibits 2-3 and 5-15 thereto and Moderna's Opposition and Exhibits B and C thereto disclose specific information concerning Moderna's sensitive material contained in confidential foreign customer contracts and the composition of Moderna's COVID-19 Vaccine:

- Plaintiffs' Motion at page 1, line 28; page 2, lines 2-25, 42; page 3, line 35;
- Exhibit 2 at page 1, lines 28, 31-32; page 2, lines 5-16, 19-21, 23-29, 36-38; page 3, lines 6, 18, 23-24, 30-33; page 4, lines 1-7, 11;
- Exhibit 3 at page 1, lines 23-30;
- Exhibit 5 at page 6, lines 11-14; page 8, lines 2,4-6; page 9, lines 20-23; page 10, lines 1-15; page 13, lines 13-21; page 14, lines 18-25; page 15, lines 1-4; page 16,

- Moderna's Opposition at page 2, lines 6, 20-32, 36-37, 42-44; page 3, lines 10-11, 31-35;
- Exhibit B at page 3, lines 27-30; and
- Exhibit C at page 3, lines 32-34.

6. The information within Plaintiffs' Motion and Exhibits 2-3 and 5-15 thereto as well as Moderna's Opposition and Exhibits B and C thereto that Moderna proposes redacting is confidential and sensitive information that Moderna does not disclose publicly, which it wishes to remain confidential. There is significant competition between established vaccine suppliers, including suppliers with mRNA-based vaccines. Additionally, there are companies considering entering the vaccine market and companies developing mRNA-based vaccines and therapeutics for other diseases or developing lipid nanoparticles for mRNA-based products. Because there are so few competitors in these markets, the markets are highly competitive, and any information about one of the competitors, even seemingly minor information, may prove competitively advantageous. The release of such information to the public, including Moderna's competitors, would significantly harm Moderna.

7. With respect to the information contained in Moderna's contracts with foreign third parties, Moderna owes a duty of confidentiality to these third parties which would require notice to each third party prior to public disclosure. These third parties include primarily foreign governments. Publicly revealing terms of the contracts with third parties could cause harm to Moderna's relationship with these third parties and give unfair advantage to competitors.

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