

**UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO
Denver**

AMGEN INC., *et al.*,

Plaintiffs,

v.

GAIL MIZNER, MD, in her official
capacity as Chair of the Colorado
Prescription Drug Affordability Review
Board, *et al.*,

Defendants.

Civil Action

No. 1:25-cv-3452-DDD-STV

PLAINTIFFS' UNOPPOSED AMENDED MOTION TO RESTRICT

Pursuant to Local Rule 7.2(c), Plaintiffs Amgen Inc., Immunex Corporation, and Amgen Manufacturing Limited LLC (collectively “Amgen”) respectfully file this Amended Motion to Restrict, together with certain partially or fully unredacted materials previously filed under a restriction, and move this Court to maintain their unredacted Reply in Support of Motion for a Preliminary Injunction (“Reply Brief”) and Exhibits 3, 15, and 16 under a Level 1 restriction, limiting access to the parties and the Court. In support of this motion, Amgen states as follows:

1. On May 19, 2026, Amgen filed a redacted copy of its Reply Brief publicly and an unredacted copy under a Level 1 restriction. ECF Nos. 59, 61. Among other exhibits to that brief are confidential contracts between Amgen and three of its

wholesalers (Exhibits 3, 15, and 16) and the transcript of the deposition of former Board Chair Dr. Gail Mizner (Exhibit 57), which Amgen also filed under a Level 1 restriction. Amgen filed the remaining exhibits without any restriction.

2. Also on May 19, 2026, Amgen filed a motion to restrict the redacted brief and four exhibits. In that brief, Defendant explained that pursuant to Paragraph 12 of the parties' Joint Protective Order, ECF 50, depositions or portions thereof may be designated as confidential. Such designation can be made on the record or within thirty days after notice by the court reporter of the completion of the transcript. All deposition testimony shall be treated as confidential until the thirty-day period has expired.

3. Amgen further explained that the court reporter informed the parties of the completion of Dr. Mizner's deposition transcript on April 27, 2026, and the transcript was thus treated as confidential by default under Paragraph 12 of the Joint Protective Order until May 27, 2026, to allow the parties time to designate any portion as confidential. Amgen thus filed the entire transcript under restriction and redacted associated portions of its brief. But in its Motion to Restrict, Amgen said it would file documents publicly (including an updated redacted brief) after the parties had a chance to designate any portion of Dr. Mizner's testimony as confidential.

4. No party designated any portion of Dr. Mizner's deposition transcript as confidential by the May 27, 2026 deadline, so there is no longer any reason to restrict those materials. As promised, Amgen now submits as Exhibits A and B to this motion

(1) an updated redacted version of the Reply Brief, no longer redacting information from Dr. Mizner's deposition, and (2) a public version of Exhibit 57.

5. Amgen asks the Court to continue restriction of public access to the unredacted version of the Reply Brief and Exhibits 3, 15, and 16 at Level 1, limiting access to the parties and the Court. As set forth below and repeated from Amgen's original Motion to Restrict, there is good cause for the restriction.

6. To govern the exchange of confidential information during discovery in this matter, the parties agreed upon and the Court entered a Joint Protective Order (ECF 50).

7. The parties have exchanged discovery responses, including documents designated as confidential pursuant to Paragraph 7 of the Joint Protective Order. Under Paragraph 8 of the Joint Protective Order, only certain persons may view such confidential information, including the parties and their attorneys.

8. Amgen's Reply Brief contains certain information that has been designated confidential. Namely, the Reply Brief contains certain confidential business information regarding proprietary drug pricing information, distribution and management contracts and negotiations, and related information regarding Amgen's contractual and business relationships. In addition, certain of Amgen's contracts with wholesalers are submitted with Plaintiffs' Reply Brief as Exhibits 3, 15, and 16, and Amgen has designated those contracts as confidential under the Joint Protective Order.

9. “Although there is a presumption of public access to court files, the right to inspect and copy judicial records is not absolute. Access properly is denied where court files might serve as a source of business information that could harm a litigant’s competitive standing.” *SBM Site Servs., LLC v. Garrett*, 2011 WL 1375117, at *3 (D. Colo. Apr. 12, 2011) (citations omitted) (citing *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978)); *see also, e.g., Lenox MacLaren Surgical Corp. v. Medtronic, Inc.*, 847 F.3d 1221, 1246 n.14 (10th Cir. 2017) (“[A] party may overcome the presumption in favor of public access to judicial records by demonstrating the [portions of the record] contain sources of business information that might harm a litigant’s competitive standing.” (quoting *Deherrera v. Decker Truck Line, Inc.*, 820 F.3d 1147, 1162 n.8 (10th Cir. 2016))); *Sports Rehab Consulting LLC v. Vail Clinic, Inc.*, 2025 WL 974047, at *2 (D. Colo. Mar. 31, 2025) (granting motion to restrict public access to “information which, if disclosed, could harm Vail’s competitive position”); *Mercer Glob. Advisors, Inc. v. ACG Wealth, Inc.*, 2024 WL 3252156, at *4 (D. Colo. June 22, 2024) (“[T]he presumption of public access ... is outweighed by the parties’ interest in privacy and protection of confidential or trade secret information.”).

10. Restriction of the unredacted Reply Brief and Exhibits 3, 15, and 16 (Amgen’s contracts with wholesalers) is necessary to protect business information that could harm Amgen’s competitive standing. The redacted portions detail confidential information regarding Amgen’s discussions with customers and other supply chain participants and Amgen’s pricing. Amgen’s interest in restricting access

outweighs the presumption of public access given Amgen's strong interest in maintaining the confidentiality of "business information that might harm [its] competitive standing." *Lenox MacLaren Surgical*, 847 F.3d at 1246 n.14 (quoting *Deherrera*, 820 F.3d at 1162 n.8).

11. There is no alternative to restriction of the unredacted Reply Brief that will adequately protect Amgen's interest in confidentiality. Amgen has filed a redacted version of the Reply Brief on the public docket, and Amgen's proposed redactions are narrowly limited to confidential information. Because those portions contain confidential, competitively sensitive business information, redaction is necessary to protect Amgen's legitimate interest. *See Kong Co. v. Bounce Enters., LLC*, 2025 WL 2208136, at *13 (D. Colo. Mar. 27, 2025) (granting motion to restrict in part because document contained "confidential business and financial information" but requiring party to "file a public redacted version of the report ... that redacts any confidential information"); *Mercer Glob. Advisors*, 2024 WL 3252156, at *4 (granting motion to restrict where party "proposed narrowly tailored redactions" to "protect disclosure of sensitive and proprietary information that is not currently available to the public" (cleaned up)).

12. There is also no adequate alternative to restriction of Exhibits 3, 15, and 16 in their entirety because these are confidential contracts with Amgen's wholesalers, and the terms of those contracts are competitively sensitive business information. Amgen has narrowly tailored its confidentiality designations and filed

multiple exhibits publicly, but redactions are not feasible for these highly sensitive documents. Without restriction, non-public information covered by the Joint Protective Order will be disclosed and harm Amgen.

13. Amgen has conferred with counsel for Defendants, and counsel has indicated that Defendants do not oppose this motion.

For these reasons, Amgen respectfully requests that the Court grant Amgen's motion to restrict access to the unredacted Reply Brief and Exhibits 3, 15, and 16 at Level 1, limiting access to the parties and the Court.

Dated: June 2, 2026

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Respectfully submitted,

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Counsel for Plaintiffs

RULE 7.1(a) CERTIFICATION

I hereby certify that I conferred with counsel for Defendants as to the relief sought in this motion, and counsel for Defendants indicated that they do not oppose the requested relief.

/s/ Paul Alessio Mezzina
Paul Alessio Mezzina

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on June 2, 2026, I electronically filed the foregoing Motion to Restrict with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all attorneys of record.

/s/ Paul Alessio Mezzina
Paul Alessio Mezzina

Counsel for Plaintiffs