

**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 MOTION TO RESTRICT

Pursuant to Local Rule 7.2(c), Plaintiffs Amgen Inc., Immunex Corporation, and Amgen Manufacturing Limited LLC (collectively “Amgen”) respectfully move this Court to maintain their unredacted Reply in Support of Motion for a Preliminary Injunction (“Reply Brief”) and Exhibits 3, 15, 16, and 57 under a Level 1 restriction, limiting access to the parties and the Court. In support of this motion, Amgen states as follows:

1. Amgen is filing a redacted copy of its Reply Brief publicly and an unredacted copy under a Level 1 restriction. 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 is also filing under a Level 1 restriction. Amgen is filing the remaining exhibits without any restriction.

2. Amgen asks the Court to continue restriction of public access to the unredacted version of the Reply Brief and Exhibits 3, 15, 16, and 57 at Level 1, limiting access to the parties and the Court. As set forth below, there is good cause for the restriction.

3. 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).

4. 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.

5. Pursuant to Paragraph 12 of the Joint Protective Order, depositions or portions thereof may also 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.

6. 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.

7. "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.").

8. 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).

9. 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 Global 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)).

10. 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.

11. In addition, Plaintiffs’ Reply Brief contains certain citations to and quotations from the transcript of Dr. Mizner’s deposition. The court reporter informed the parties of the completion of Dr. Mizner’s deposition transcript on April 27, 2026, and the transcript is 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.

12. There is no present alternative to restriction that will adequately protect the interests of the parties in providing the agreed-upon thirty days to review the transcript of Dr. Mizner’s deposition and identify any confidentiality designations. If the parties do not designate any of the relevant portions confidential, Amgen will submit a revised redacted version of its Reply Brief with only the confidential business information discussed above redacted.

13. For the same reasons, there is no present alternative to the restriction of Exhibit 57 in its entirety until May 27, 2026, when the time to designate portions of Dr. Mizner's deposition transcript as confidential expires. At that time, if no party designates any portion of the transcript confidential, Exhibit 57 can be unrestricted in its entirety. If portions of the transcript are designated confidential, the parties can coordinate to submit a redacted version of the transcript.

14. 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, 16, and 57 at Level 1, limiting access to the parties and the Court.

Dated: May 19, 2026

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Respectfully submitted,

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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 May 19, 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