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15 Attorneys for Plaintiff

16 **UNITED STATES DISTRICT COURT**
17 **DISTRICT OF ARIZONA**

18 _____)
19 INFORMED CONSENT ACTION NETWORK,)
20 Plaintiff,) No. _____
21 v.) **COMPLAINT FOR DECLARATORY**
22 NATIONAL INSTITUTES OF HEALTH,) **AND INJUNCTIVE RELIEF**
23 Defendant.)
24 _____)

25 Plaintiff, as for its Complaint against the above-captioned Defendant, alleges as follows:

26 **INTRODUCTION**

27 1. A novel coronavirus, SARS-CoV-2, which causes coronavirus disease 2019
28 (“COVID-19”) has resulted in federal government officials recommending numerous restrictions
on everyday life in America. In response, all fifty states have implemented the recommended

1 restrictions to varying degrees, many of which press deeply upon cherished fundamental
2 constitutional rights.

3 2. The National Institute of Allergy and Infectious Diseases (“**NIAID**”) is at the center
4 of the federal government’s response to COVID-19. NIAID is an institute within the National
5 Institutes of Health (“**Defendant**” or “**NIH**”). Dr. Anthony S. Fauci serves as NIAID’s Director.
6 Dr. Fauci has repeatedly asserted that “[f]inding a safe and effective vaccine to prevent infection
7 with SARS-CoV-2 is an urgent public health priority.”¹ To that end, NIAID has been funding and
8 leading the development of mRNA-1273, the first vaccine for COVID-19 to enter into clinical
9 trials.²

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11 3. Plaintiff Informed Consent Action Network (“**Plaintiff**” or “**ICAN**”) is a non-profit
12 organization that advocates for informed consent and disseminates information necessary for same
13 with regard to all medical interventions. Given its mission, ICAN and its founder, Del Bigtree,
14 have received a litany of inquiries regarding COVID-19 and the vaccine being developed by
15 NIAID for COVID-19.

16
17 4. In furtherance of its mission and in order to respond to the inquiries it has received,
18 Plaintiff made a number of requests to NIH pursuant to the Freedom of Information Act (5 U.S.C.
19 §552, as amended) (“**FOIA**”) for documents regarding COVID-19 and a potential COVID-19
20 vaccine, including a request for “all safety and efficacy data and information regarding mRNA-
21 1273, including from the Phase I clinical trial of this experimental vaccine.” While NIH granted
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26 ¹ <https://www.nih.gov/news-events/news-releases/nih-clinical-trial-investigational-vaccine-covid-19-begins> (emphasis added).

27 ² See https://www.clinicaltrials.gov/ct2/results?cond=COVID19&age_v=&gndr=&type=&rslt=&fund=0&Search=Apply.

1 expedited processing for this request, NIH has failed to further respond to this and all the other
2 related requests submitted by ICAN as required under FOIA.

3 5. For all requests, NIH neither provided a determination letter as required by 5 U.S.C.
4 § 552, nor produced any documents responsive to ICAN's FOIA requests. Each of the FOIA
5 requests was proper and sought documents that NIH could have and should have easily been able
6 to produce. ICAN therefore brings this action seeking an order directing Defendant to produce
7 records responsive to ICAN's FOIA requests.
8

9 **PARTIES**

10 6. ICAN is a not-for-profit organization with offices in New York, Texas and Arizona,
11 including at 2 North Central Avenue, Phoenix, AZ 85004.
12

13 7. Defendant National Institutes of Health is an agency within the Executive Branch
14 of the United States Government, organized within the Department of Health and Human Services.
15 NIH is an agency within the meaning of 5 U.S.C. §552(f).
16

17 **JURISDICTION AND VENUE**

18 8. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and
19 28 U.S.C. § 1331. Venue is proper within this District pursuant to 5 U.S.C. § 552(a)(4)(B) and 28
20 U.S.C. § 1391.
21

22 **FACTS**

23 **I. Background**

24 9. The first vaccine for COVID-19 to begin trials in the United States is mRNA-1273.³
25 This experimental vaccine is being developed by NIAID, the NIH institute directed by Dr. Fauci,
26
27

28 ³ See <https://www.nih.gov/news-events/news-releases/nih-clinical-trial-investigational-vaccine-covid-19-begins>.

1 along with a biotechnology company, Moderna Inc.⁴

2 10. The first vaccine for COVID-19 to begin trials in the United States is mRNA-1273.⁵
3 This experimental vaccine is being developed by NIAID, the NIH institute directed by Dr. Fauci,
4 along with a biotechnology company, Moderna Inc.⁶

5 11. NIAID used taxpayer dollars to sponsor, assume responsibility for, and perform the
6 first clinical trial for the mRNA-1273 vaccine.⁷ Likewise, NIAID's parent department, the
7 Department of Health and Human Services ("HHS"), awarded \$483 million to accelerate
8 development of mRNA-1273, including to "fund the development of mRNA-1273 to FDA
9 licensure and manufacturing process scale-up to enable large-scale production in 2020 [before
10 licensure is granted]."⁸

11 12. HHS has also granted those developing and those who will sell this product broad
12 immunity from liability for injuries.⁹

13 13. Furthermore, a number of NIAID employees are listed as inventors on two patents
14 relating to the development of mRNA-1273. ¹⁰ The first is patent application number 62/412,703
15 titled *Profusion Coronavirus Spike Proteins and Their Use*¹¹ and the second is patent application

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20 4 See <https://www.nih.gov/news-events/news-releases/nih-clinical-trial-investigational-vaccine-covid-19-begins>.

21 5 See <https://www.nih.gov/news-events/news-releases/nih-clinical-trial-investigational-vaccine-covid-19-begins>.

22 6 See <https://www.nih.gov/news-events/news-releases/nih-clinical-trial-investigational-vaccine-covid-19-begins>.

23 7 See <https://clinicaltrials.gov/ct2/show/NCT04283461>;
24 https://projectreporter.nih.gov/project_info_history.cfm?aid=10110093&icde=49376321;
https://projectreporter.nih.gov/project_info_description.cfm?aid=9872016&icde=49376321.

25 8 <https://www.modernatx.com/modernas-work-potential-vaccine-against-covid-19>;
<https://investors.modernatx.com/node/8671/pdf>.

26 9 See <https://www.phe.gov/Preparedness/legal/prepact/Pages/default.aspx>.

27 10 See <https://science.sciencemag.org/content/early/2020/02/19/science.abb2507/tab-pdf?versioned=true> (see "Competing interests" on page 4).

28 11 See <http://appft.uspto.gov/netacgi/nph-Parser?Sect1=PTO2&Sect2=HITOFF&p=1&u=%2Fnetacgi%2FPTO%2Fsearch-adv.html&r=1&f=G&l=50&d=PG01&S1=344,774&OS=344>

1 number 62/972,886 titled *2019-nCoV Vaccine*.¹² NIAID employees listed on these patents include
 2 Barney Graham,¹³ Masaru Kanekiyo,¹⁴ Hadi Yassine,¹⁵ Kizzmekia Corbett,¹⁶ Michael Joyce,¹⁷ and
 3 Olubukola Abiona.¹⁸

4 14. Because of the federal government's intimate involvement in developing mRNA-
 5 1273 and its support of this product, information regarding this potential COVID-19 vaccine is a
 6 matter of immediate concern to the American public. Indeed, news articles have widely reported
 7 about this vaccine.¹⁹ Dr. Fauci has widely discussed this potential product in the media.²⁰ Moderna
 8 has similarly released press releases regarding this product, including announcing a secondary
 9 offering of \$1,250,000,000 on the same day it released preliminary results from mRNA-1273's
 10 initial trial conducted by NIAID.²¹

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 15 [,774&RS=344,774; https://www.ott.nih.gov/technology/e-234-2016.](https://www.ott.nih.gov/technology/e-234-2016)

16 ¹² See [https://www.nih.gov/news-events/news-releases/nih-clinical-trial-investigational-vaccine-covid-19-begins.](https://www.nih.gov/news-events/news-releases/nih-clinical-trial-investigational-vaccine-covid-19-begins)

17 ¹³ [https://www.niaid.nih.gov/research/barney-graham-md-phd.](https://www.niaid.nih.gov/research/barney-graham-md-phd)

18 ¹⁴ [https://www.niaid.nih.gov/research/pathogenar-module-influenza-universal-vaccine.](https://www.niaid.nih.gov/research/pathogenar-module-influenza-universal-vaccine)

19 ¹⁵ See [https://www.niaid.nih.gov/research/barney-graham-md-phd.](https://www.niaid.nih.gov/research/barney-graham-md-phd)

20 ¹⁶ See [https://ned.nih.gov/search/ViewDetails.aspx?NIHID=0012686509.](https://ned.nih.gov/search/ViewDetails.aspx?NIHID=0012686509)

21 ¹⁷ See [https://ned.nih.gov/search/ViewDetails.aspx?NIHID=0012508859.](https://ned.nih.gov/search/ViewDetails.aspx?NIHID=0012508859)

22 ¹⁸ See [https://ned.nih.gov/search/ViewDetails.aspx?NIHID=2002358423.](https://ned.nih.gov/search/ViewDetails.aspx?NIHID=2002358423)

23 ¹⁹ See <https://www.nih.gov/news-events/news-releases/nih-clinical-trial-investigational-vaccine-covid-19-begins>; <https://science.sciencemag.org/content/early/2020/02/19/science.abb2507/tab-pdf?versioned=true>; <https://time.com/5835785/moderna-coronavirus-vaccine-phase-2/>;
 24 <https://www.businesswire.com/news/home/20200427005839/en/Moderna-Announces-IND-Submitted-U.S.-FDA-Phase>; <https://www.cnbc.com/2020/05/07/fda-approves-moderna-vaccine-candidate-for-phase-2-study.html>; <https://www.modernatx.com/modernas-work-potential-vaccine-against-covid-19>; <https://www.nytimes.com/2020/05/07/health/coronavirus-vaccine-moderna.html>.

25 ²⁰ See, e.g., <https://www.cnn.com/2020/05/22/investing/moderna-coronavirus-vaccine-stock-sales/index.html> (“Although the numbers were limited, it was quite good news because it reached and went over an important hurdle in the development of vaccines.”).

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 27 ²¹ See <https://investors.modernatx.com/news-releases/news-release-details/moderna-announces-positive-interim-phase-1-data-its-mrna-vaccine>; [https://investors.modernatx.com/static-files/49d9b447-214a-4f9d-802c-4b8cd4e3d269.](https://investors.modernatx.com/static-files/49d9b447-214a-4f9d-802c-4b8cd4e3d269)

1 15. Judicial scholars have begun to opine regarding the legality of mandating this
2 product to all adults. Alan Dershowitz, for example, recently stated that he would support such a
3 mandate, adding that, “if you refuse to be vaccinated, the state has the power to literally take you
4 to a doctor’s office and plunge a needle into your arm.”²² Mr. Dershowitz appeared on ICAN’s
5 public broadcast, The HighWire with Del Bigtree, to defend this position, including specifically
6 addressing mandating mRNA-1273 for adults.²³
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8 16. Moreover, states are expected to mandate the vaccine for all their residents. For
9 example, the New York State Bar Association recently issued a report on COVID-19
10 recommending that, “[w]hen the efficacy of a COVID-19 vaccine has been confirmed” states
11 should “enact legislation requiring vaccination of each person.”²⁴
12

13 17. Given the public interest in this product and the potential for states to mandate
14 administering this product to nearly all their citizens, which is antithetical to informed consent,
15 ICAN submitted a number of FOIA requests to NIH.

16 **I. The FOIA Requests**

17 18. On March 27, 2020, ICAN made the following requests to NIH related to mRNA-
18 1273:
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- 20 i. “Copies of any and all Employee Invention Report related to any vaccine or
21 therapeutic for COVID-19.” (“**FOIA Request 53821**”) (attached as Exhibit A)
- 22 ii. “Copies of any and all royalty or licensing agreements related to any vaccine or
23 therapeutic for COVID-19.” (“**FOIA Request 53822**”) (attached as Exhibit B)
- 24 iii. “A copy of the page of any patent application filed with regard to the mRNA-1273
25 vaccine which lists the inventors.” (“**FOIA Request 53826**”) (attached as Exhibit
26 C)

26 ²² <https://youtu.be/tuoM3QGSUhM>.

27 ²³ See <https://youtu.be/tuoM3QGSUhM>.

28 ²⁴ https://nysba.org/app/uploads/2020/05/HealthLawSectionTaskForceCOVID-19Report_5.13.20-1.pdf.

1 19. On April 10, 2020, ICAN also made the following request to NIH: “All emails sent
2 or received by Anthony Fauci between November 1, 2019 and the present that include the term
3 Moderna or mRNA-1273 in any portion of the email, including the body, subject, metadata, sender
4 line, or recipient line of the email, or any attachment to the email.” (“**FOIA Request 53963**”)
5 (attached as Exhibit D). That same day, ICAN made this same request as to Barney Graham
6 (“**FOIA Request 53962**”) (attached as Exhibit E), Kizzmekia Corbett, (“**FOIA Request 53961**”)
7 (attached as Exhibit F), Michael Gordon Joyce (“**FOIA Request 53958**”) (attached as Exhibit G),
8 Masaru Kanekiyo (“**FOIA Request 53960**”) (attached as Exhibit H), Olubukola Mary Abisola
9 Abiona (“**FOIA Request 53959**”) (attached as Exhibit I), and Hadi Yassine (“**FOIA Request**
10 **54105**”) (attached as Exhibit J).

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13 20. Thereafter, on May 5, 2020, ICAN made the following additional request to NIH:
14 “All emails sent or received by Anthony Fauci between November 1, 2019 and the present that
15 include the terms SARS-CoV, COVID, COVID-19, or coronavirus in any portion of the email,
16 including the body, subject, metadata, sender line, or recipient line of the email, or any attachment
17 to the email.” (“**FOIA Request 54106**”) (attached as Exhibit K). That same day, ICAN made
18 this same request as to Barney Graham (“**FOIA Request 54107**”) (attached as Exhibit L).

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20 21. On May 22, 2020, ICAN submitted a FOIA request to NIH for: “All safety and
21 efficacy data and information regarding mRNA-1273, including from the Phase I clinical trial of
22 this experimental vaccine conducted by the National Institute of Allergy and Infectious Diseases.”
23 (“**FOIA Request 54464**”) (attached as Exhibit M). Given the critical nature of this specific data,
24 ICAN also requested that NIH grant expedited processing for this request.
25

26 22. NIH is required to “determine within 20 days (excepting Saturdays, Sundays, and
27 legal public holidays) after the receipt of any such request whether to comply with such request
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1 and shall immediately notify the person making such request of such determination and the reasons
2 therefore.” 5 U.S.C. § 552(a)(6)(A)(i). At a minimum, within 20 days of receiving each of ICAN’s
3 requests, NIH was required by 5 U.S.C. § 552(a)(6)(A)(i) to: (i) gather and review the requested
4 records or seek a statutorily permitted extension; (ii) determine and communicate to ICAN the
5 scope of any responsive records it intended to produce or withhold and the reasons for any
6 withholdings; and (iii) inform ICAN that it had the right to appeal NIH’s determination. *See, e.g.,*
7 *Citizens for Responsibility and Ethics in Washington v. Federal Election Commission*, 711 F.3d
8 180, 188-89 (D.C. Cir. 2013).

9
10 23. Furthermore, if an agency grants expedited processing, it is obligated to process the
11 request “as soon as practicable.” 5 U.S.C. § 552(a)(6)(E)(iii).

12 **II. NIH Fails to Properly Respond or Produce Any Documents**

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14 24. Despite the passage of more than 20 business days since NIH received each of the
15 above requests, it has failed to provide a statutorily required response, including failing to: seek a
16 permitted extension; determine and communicate to ICAN the scope of any responsive records it
17 intended to produce or withhold and the reasons for any withholdings; or inform ICAN of its right
18 to appeal.

19
20 25. Instead, for one request listed above (FOIA Request 53821), NIH merely sent
21 ICAN a response stating that it is “In Process” (attached as Exhibit N). For another two listed
22 requests (FOIA Requests 53822 and 53826), NIH only conveyed to ICAN that they had been
23 “Received” (attached as Exhibit O). For six of the listed requests (FOIA Requests 53963, 53962,
24 53961, 53958, 53960 and 53959), NIH acknowledged the requests the day after they were filed,
25 on April 10, 2020, as follows:

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27 This acknowledges your April 9, 2020 Freedom of Information Act
28 (FOIA) request which was submitted to the National Institutes of

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Health (NIH) FOIA Office and received in that office the same day. Your request was referred to the National Institute of Allergy and Infectious Diseases (NIAID) FOIA Office because of our responsibilities under FOIA...We are searching the files of the Office of the Director, NIAID for records responsive to your request. If any documents responsive to your request are located, they will be reviewed for releasability, and all releasable information will be sent to you. We will do everything possible to comply with your request in a timely manner.

(attached as Exhibit P). For three other requests (FOIA Requests 54105, 54106 and 54107), the NIH, on May 5, 2020, only acknowledged receipt as follows:

This acknowledges your April 29, 2020 Freedom of Information Act (FOIA) request addressed to Gorka Garcia-Malene, FOIA Officer, National Institutes of Health (NIH), which was received by the National Institute of Allergy and Infectious Diseases (NIAID) FOIA Office the same day...We are searching the files of the Vaccine Research Center, NIAID for records responsive to your request. If any documents responsive to your request are located, they will be reviewed for releasability, and all releasable information will be sent to you. We will do everything possible to comply with your request in a timely manner.

(attached as Exhibit Q).

26. On June 8, 2020, NIH recognized the “compelling need” to expeditiously release to the public the information requested by the May 22, 2020 FOIA Request 54464, writing to ICAN in relevant part as follows:

In support of your request for expedited processing, you state that, “Information regarding this vaccine, and in particular the safety and efficacy information regarding this vaccine, are a matter of immediate concern to the American public.” Your client’s request meets the standards of “compelling need,” therefore, I am granting your request for expedited processing.

We are searching the files of the NIH for records responsive to your request. If any documents responsive to your request are located, they will be reviewed for releasability, and all releasable information will be sent to you. We will do everything possible to comply with your request in a timely manner.

1 (attached as Exhibit R).

2 27. After NIH's June 8, 2020 letter granting expedited processing, Plaintiff received no
3 further communication or documents from NIH.

4 28. When an agency grants expedited processing, "a prima facie showing of agency
5 delay exists when an agency fails to process an expedited FOIA request within the time limit
6 applicable to standard FOIA requests." *Elec. Privacy Info. Ctr. v. Dep't of Justice*, 416 F. Supp.
7 2d 30, 39 (D.D.C. 2006). Therefore, because more than 20 business days have passed since filing
8 FOIA Request 54464, NIH has presumptively failed to process FOIA Request 54464 in an
9 expedited manner.

10 29. NIH has therefore failed to timely provide the responses required under FOIA for
11 any of the FOIA Requests. NIH also failed to produce responsive documents and has not sought
12 any of the statutorily available extensions of time available under FOIA. *ACLU of Wash. v. U.S.*
13 *Dep't of Justice*, 2011 U.S. Dist. LEXIS 26047, at *32-33 (W.D. Wash. March 10, 2011) (finding
14 the agency failed to act in a timely manner "[p]ursuant to FOIA § 552(a)(6)(C)" where
15 "[defendant] did not seek an administrative extension of time in which to produce
16 documents...[n]or did [defendant] respond to plaintiff's request for a fee waiver in a timely
17 manner."). Nor did NIH provide a determination, and the reasons therefore, as to what records it
18 intends to produce and the ones it intends to withhold. 5 U.S.C. § 552(a)(6)(A)(i)(I).

19 30. Furthermore, because NIH neither produced documents nor provided such a
20 determination, NIH failed to provide ICAN with the required information to effectively submit an
21 appeal as required by 5 U.S.C. § 552(a)(6)(A)(i)(II) and (III). *See, e.g.*, 5 U.S.C. § 552(a)(6)(C)(i);
22 *Oglesby v. U.S. Dep't of Army*, 920 F.2d 57, 65 (D.C. Cir. 1990) ("A response is sufficient for
23 purposes of requiring an administrative appeal if it includes: the agency's determination of whether
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1 or not to comply with the request; the reasons for its decision; and notice of the right of the
2 requester to appeal to the head of the agency if the initial agency decision is adverse.”); (*Shermco*
3 *Indus. v Sec’y of U.S. Air Force*, 452 F.Supp. 306, 318 (N.D. Tex. 1978), *rev’d on other*
4 *grounds*, 613 F.2d 1314 (5th Cir. 1980)) (Plaintiffs were not required to exhaust their
5 administrative remedies when defendant failed to provide plaintiffs with a complete determination
6 because defendant’s response “does not include a list of the releasable and withheld documents,
7 does not include a statement of the fees charged for the releasable documents, and does not include
8 a statement of why the agency believes waiver or reduction of any fee charged is not in the public
9 interest or does not benefit the general public. The plaintiffs could not effectively appeal the [...]”
10 adverse decision on their FOIA request without this information.”)

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13 31. For these reasons, NIH has failed to abide by the requirements of FOIA and has
14 forced ICAN to come before this Court to seek an order directing NIH to expeditiously produce
15 all documents responsive to its FOIA requests. The information ICAN seeks is simply too
16 important to the current public discourse regarding the COVID-19 pandemic to allow NIH to
17 withhold such information from public scrutiny.
18

19 **REQUESTED RELIEF**

20 WHEREFORE, Plaintiff prays that this Court:

- 21 a. Provide for expeditious proceedings in this action;
- 22 b. Enter an Order directing NIH, within 10 days, to produce the requested documents;
- 23 c. Award Plaintiff its costs and reasonable attorneys’ fees incurred in this action as
24 provided by 5 U.S.C. § 552(a)(4)(E); and
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d. Grant such other and further relief as the Court may deem just and proper.

Dated: June 29, 2020

/s/Aaron Siri
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Informed Consent Action Network

v.

National Institutes of Health

Exhibits to Complaint for Declaratory and Injunctive Relief

1. Exhibit A – March 27, 2020 FOIA Request 53821
2. Exhibit B – March 27, 2020 FOIA Request 53822
3. Exhibit C – March 27, 2020 FOIA Request 53826
4. Exhibit D – April 10, 2020 FOIA Request 53963
5. Exhibit E – April 10, 2020 FOIA Request 53962
6. Exhibit F – April 10, 2020 FOIA Request 53961
7. Exhibit G – April 10, 2020 FOIA Request 53958
8. Exhibit H – April 10, 2020 FOIA Request 53960
9. Exhibit I – April 10, 2020 FOIA Request 53959
10. Exhibit J – April 10, 2020 FOIA Request 54105
11. Exhibit K – May 5, 2020 FOIA Request 54106
12. Exhibit L – May 5, 2020 FOIA Request 54107
13. Exhibit M – May 22, 2020 FOIA Request 54464
14. Exhibit N – NIH “In Process” Response Regarding FOIA Request 53821
15. Exhibit O – NIH “Received” Responses Regarding FOIA Requests 53822 and 53826
16. Exhibit P – NIH April 10, 2020 Responses Regarding FOIA Requests 53963, 53962, 53961, 53958, 53960 and 53959
17. Exhibit Q – NIH May 5, 2020 Acknowledgments Regarding FOIA Requests 54105, 54106, and 54107
18. Exhibit R – NIH June 8, 2020 Communication Regarding FOIA Request 54464

Exhibit A

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AMENDED FREEDOM OF INFORMATION ACT REQUEST

VIA EMAIL

March 27, 2020

Gorka Garcia-Malene
Freedom of Information Act Officer
National Institutes of Health
Building 31 Room 5B35
9000 Rockville Pike
Bethesda, Maryland 20892
Email: nihfoia@mail.nih.gov

Re: Employee Invention Reports Related to Any Vaccine or Therapeutic for COVID-19 (IR#0262)

Dear Mr. Garcia-Malene:

This firm represents Informed Consent Action Network (“ICAN”). On behalf of ICAN, we hereby request records pursuant to the Freedom of Information Act (5 U.S.C. § 552, as amended) from the files of the National Institutes of Health (“NIH”).

Please provide the following records in the National Institutes of Health’s possession to foia@sirillp.com in electronic form:

Copies of all and each Employee Invention Report related to any vaccine or therapeutic for COVID-19.

Fees and charges for this search are to be waived pursuant to 5 U.S.C. § 552 (a)(4)(A)(iii) since ICAN is a not-for-profit 501(c)(3) organization and its mission is to raise public awareness about vaccine safety and provide the public with information to give informed consent. As part of its mission, ICAN investigates and disseminates information regarding vaccine safety, including through their website, and through press events and releases. ICAN is seeking the information in this FOIA request to allow it to contribute to the public understanding of the government’s vaccine safety programs, including the government’s efforts to promote vaccine safety. The information requested in this FOIA request will not contribute to any commercial activities.

Please note that the FOIA provides that if only portions of a requested file are exempted from release, the remainder must still be released. We, therefore, request that we be provided with all non-exempt portions which are reasonably segregable. We further request that you describe

any deleted or withheld material in detail and specify the statutory basis for the denial as well as your reasons for believing that the alleged statutory justification applies. Please also separately state your reasons for not invoking your discretionary powers to release the requested documents in the public interest. Such statements may help to avoid unnecessary appeal and litigation. ICAN of course reserves all rights to appeal the withholding or deletion of any information.

Access to the requested records should be granted within twenty (20) business days from the date of your receipt of this letter. Failure to respond in a timely manner shall be viewed as a denial of this request and ICAN may immediately file an administrative appeal.

If you would like to discuss our requests or any issues raised in this letter, please feel free to contact me at (212) 532-1091 or via email at foia@sirillp.com during normal business hours. Thank you for your time and attention to this matter.

Very truly yours,

A handwritten signature in black ink that reads "Allison Lucas". The signature is written in a cursive, flowing style.

Allison Lucas, Esq.
Licensed in MI

Exhibit B

Siri | Glimstad

200 Park Avenue, Seventeenth Floor, New York, NY 10166
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FREEDOM OF INFORMATION ACT REQUEST

VIA EMAIL

March 27, 2020

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Bethesda, Maryland 20892
Email: [nihfoia@mail.nih.gov](mailto:.nihfoia@mail.nih.gov)

Re: Royalty or Licensing Agreements Related to Any Vaccine or Therapeutic
for COVID-19 (IR#0263)

Dear Mr. Garcia-Malene:

This firm represents Informed Consent Action Network (“ICAN”). On behalf of ICAN, we hereby request records pursuant to the Freedom of Information Act (5 U.S.C. § 552, as amended) from the files of the National Institutes of Health (“NIH”).

Please provide the following records in the National Institutes of Health’s possession to foia@sirillp.com in electronic form:

Copies of any and all royalty or licensing agreements related to any vaccine or therapeutic for COVID-19.

Fees and charges for this search are to be waived pursuant to 5 U.S.C. § 552 (a)(4)(A)(iii) since ICAN is a not-for-profit 501(c)(3) organization and its mission is to raise public awareness about vaccine safety and provide the public with information to give informed consent. As part of its mission, ICAN investigates and disseminates information regarding vaccine safety, including through their website, and through press events and releases. ICAN is seeking the information in this FOIA request to allow it to contribute to the public understanding of the government’s vaccine safety programs, including the government’s efforts to promote vaccine safety. The information requested in this FOIA request will not contribute to any commercial activities.

Please note that the FOIA provides that if only portions of a requested file are exempted from release, the remainder must still be released. We, therefore, request that we be provided with all non-exempt portions which are reasonably segregable. We further request that you describe

any deleted or withheld material in detail and specify the statutory basis for the denial as well as your reasons for believing that the alleged statutory justification applies. Please also separately state your reasons for not invoking your discretionary powers to release the requested documents in the public interest. Such statements may help to avoid unnecessary appeal and litigation. ICAN of course reserves all rights to appeal the withholding or deletion of any information.

Access to the requested records should be granted within twenty (20) business days from the date of your receipt of this letter. Failure to respond in a timely manner shall be viewed as a denial of this request and ICAN may immediately file an administrative appeal.

If you would like to discuss our requests or any issues raised in this letter, please feel free to contact me at (212) 532-1091 or via email at foia@sirillp.com during normal business hours. Thank you for your time and attention to this matter.

Very truly yours,

A handwritten signature in black ink that reads "Allison Lucas". The signature is written in a cursive, flowing style.

Allison Lucas, Esq.
Licensed in MI

Exhibit C

Siri | Glimstad

200 Park Avenue, Seventeenth Floor, New York, NY 10166
sirillp.com | P: (212) 532-1091 | F: (646) 417-5967

FREEDOM OF INFORMATION ACT REQUEST

VIA EMAIL

March 27, 2020

Gorka Garcia-Malene
Freedom of Information Act Officer
National Institutes of Health
Building 31 Room 5B35
9000 Rockville Pike
Bethesda, Maryland 20892
Email: [nihfoia@mail.nih.gov](mailto:.nihfoia@mail.nih.gov)

Re: Copies of Any Patent Application re mRNA-1273 Vaccine Listing the Inventors (IR#0267)

Dear Mr. Garcia-Malene:

This firm represents Informed Consent Action Network (“ICAN”). On behalf of ICAN, we hereby request records pursuant to the Freedom of Information Act (5 U.S.C. § 552, as amended) from the files of the National Institutes of Health (“NIH”).

Please provide the following records in the National Institutes of Health’s possession to foia@sirillp.com in electronic form:

A copy of the page of any patent application filed with regard to the mRNA-1273 vaccine which lists the inventors.

Fees and charges for this search are to be waived pursuant to 5 U.S.C. § 552 (a)(4)(A)(iii) since ICAN is a not-for-profit 501(c)(3) organization and its mission is to raise public awareness about vaccine safety and provide the public with information to give informed consent. As part of its mission, ICAN investigates and disseminates information regarding vaccine safety, including through their website, and through press events and releases. ICAN is seeking the information in this FOIA request to allow it to contribute to the public understanding of the government’s vaccine safety programs, including the government’s efforts to promote vaccine safety. The information requested in this FOIA request will not contribute to any commercial activities.

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Access to the requested records should be granted within twenty (20) business days from the date of your receipt of this letter. Failure to respond in a timely manner shall be viewed as a denial of this request and ICAN may immediately file an administrative appeal.

If you would like to discuss our requests or any issues raised in this letter, please feel free to contact me at (212) 532-1091 or via email at foia@sirillp.com during normal business hours. Thank you for your time and attention to this matter.

Very truly yours,

A handwritten signature in black ink that reads "Allison Lucas". The signature is written in a cursive, flowing style.

Allison Lucas, Esq.
Licensed in MI

Exhibit D

Siri | Glimstad

200 Park Avenue, Seventeenth Floor, New York, NY 10166
sirillp.com | P: (212) 532-1091 | F: (646) 417-5967

FREEDOM OF INFORMATION ACT REQUEST

VIA EMAIL

April 9, 2020

Gorka Garcia-Malene
Freedom of Information Act Officer
National Institutes of Health
Building 31 Room 5B35
9000 Rockville Pike
Bethesda, Maryland 20892
Email: nihfoia@mail.nih.gov

*Re: Anthony Fauci Emails Regarding Moderna or mRNA-1273, November 2019 – Present
(IR#0269)*

Dear Mr. Garcia-Malene:

This firm represents the Informed Consent Action Network (“ICAN”). On behalf of ICAN, please provide the following records to foia@sirillp.com in electronic form:

All emails sent or received by Anthony Fauci between November 1, 2019 and the present that include the term Moderna or mRNA-1273 in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.

Fees and charges for this search are to be waived pursuant to 5 U.S.C. § 552 (a)(4)(A)(iii) since ICAN is a not-for-profit 501(c)(3) organization and its mission is to raise public awareness about vaccine safety and provide the public with information to give informed consent. As part of its mission, ICAN investigates and disseminates information regarding vaccine safety, including through their website, and through press events and releases. ICAN is seeking the information in this FOIA request to allow it to contribute to the public understanding of the government’s vaccine safety programs, including the government’s efforts to promote vaccine safety. The information requested in this FOIA request will not contribute to any commercial activities.

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your reasons for believing that the alleged statutory justification applies. Please also separately state your reasons for not invoking your discretionary powers to release the requested documents in the public interest. Such statements may help to avoid unnecessary appeal and litigation. ICAN of course reserves all rights to appeal the withholding or deletion of any information.

Access to the requested records should be granted within twenty (20) business days from the date of your receipt of this letter. Failure to respond in a timely manner shall be viewed as a denial of this request and ICAN may immediately file an administrative appeal.

If you would like to discuss our requests or any issues raised in this letter, please feel free to contact me at (212) 532-1091 or via email at foia@sirillp.com during normal business hours. Thank you for your time and attention to this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'A. Siri', written in a cursive style.

Aaron Siri, Esq.

Exhibit E

Siri | Glimstad

200 Park Avenue, Seventeenth Floor, New York, NY 10166
sirillp.com | P: (212) 532-1091 | F: (646) 417-5967

FREEDOM OF INFORMATION ACT REQUEST

VIA EMAIL

April 9, 2020

Gorka Garcia-Malene
Freedom of Information Act Officer
National Institutes of Health
Building 31 Room 5B35
9000 Rockville Pike
Bethesda, Maryland 20892
Email: nihfoia@mail.nih.gov

*Re: Barney Graham Emails Regarding Moderna or mRNA-1273, November 2019 – Present
(IR#0270)*

Dear Mr. Garcia-Malene:

This firm represents the Informed Consent Action Network (“ICAN”). On behalf of ICAN, please provide the following records to foia@sirillp.com in electronic form:

All emails sent or received by Barney Graham between November 1, 2019 and the present that include the term Moderna or mRNA-1273 in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.

Fees and charges for this search are to be waived pursuant to 5 U.S.C. § 552 (a)(4)(A)(iii) since ICAN is a not-for-profit 501(c)(3) organization and its mission is to raise public awareness about vaccine safety and provide the public with information to give informed consent. As part of its mission, ICAN investigates and disseminates information regarding vaccine safety, including through their website, and through press events and releases. ICAN is seeking the information in this FOIA request to allow it to contribute to the public understanding of the government’s vaccine safety programs, including the government’s efforts to promote vaccine safety. The information requested in this FOIA request will not contribute to any commercial activities.

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Access to the requested records should be granted within twenty (20) business days from the date of your receipt of this letter. Failure to respond in a timely manner shall be viewed as a denial of this request and ICAN may immediately file an administrative appeal.

If you would like to discuss our requests or any issues raised in this letter, please feel free to contact me at (212) 532-1091 or via email at foia@sirillp.com during normal business hours. Thank you for your time and attention to this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'ASiri', written in a cursive style.

Aaron Siri, Esq.

Exhibit F

Siri | Glimstad

200 Park Avenue, Seventeenth Floor, New York, NY 10166
sirillp.com | P: (212) 532-1091 | F: (646) 417-5967

FREEDOM OF INFORMATION ACT REQUEST

VIA EMAIL

April 9, 2020

Gorka Garcia-Malene
Freedom of Information Act Officer
National Institutes of Health
Building 31 Room 5B35
9000 Rockville Pike
Bethesda, Maryland 20892
Email: nihfoia@mail.nih.gov

Re: Kizzmekia Corbett Emails Regarding Moderna or mRNA-1273, November 2019 – Present (IR#0272)

Dear Mr. Garcia-Malene:

This firm represents the Informed Consent Action Network (“ICAN”). On behalf of ICAN, please provide the following records to foia@sirillp.com in electronic form:

All emails sent or received by Kizzmekia Corbett between November 1, 2019 and the present that include the term Moderna or mRNA-1273 in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.

Fees and charges for this search are to be waived pursuant to 5 U.S.C. § 552 (a)(4)(A)(iii) since ICAN is a not-for-profit 501(c)(3) organization and its mission is to raise public awareness about vaccine safety and provide the public with information to give informed consent. As part of its mission, ICAN investigates and disseminates information regarding vaccine safety, including through their website, and through press events and releases. ICAN is seeking the information in this FOIA request to allow it to contribute to the public understanding of the government’s vaccine safety programs, including the government’s efforts to promote vaccine safety. The information requested in this FOIA request will not contribute to any commercial activities.

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state your reasons for not invoking your discretionary powers to release the requested documents in the public interest. Such statements may help to avoid unnecessary appeal and litigation. ICAN of course reserves all rights to appeal the withholding or deletion of any information.

Access to the requested records should be granted within twenty (20) business days from the date of your receipt of this letter. Failure to respond in a timely manner shall be viewed as a denial of this request and ICAN may immediately file an administrative appeal.

If you would like to discuss our requests or any issues raised in this letter, please feel free to contact me at (212) 532-1091 or via email at foia@sirillp.com during normal business hours. Thank you for your time and attention to this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'AS', with a long horizontal stroke extending to the right.

Aaron Siri, Esq.

Exhibit G

Siri | Glimstad

200 Park Avenue, Seventeenth Floor, New York, NY 10166
sirillp.com | P: (212) 532-1091 | F: (646) 417-5967

FREEDOM OF INFORMATION ACT REQUEST

VIA EMAIL

April 9, 2020

Gorka Garcia-Malene
Freedom of Information Act Officer
National Institutes of Health
Building 31 Room 5B35
9000 Rockville Pike
Bethesda, Maryland 20892
Email: nihfoia@mail.nih.gov

Re: Michael Gordon Joyce Emails Regarding Moderna or mRNA-1273, November 2019 – Present (IR#0273)

Dear Mr. Garcia-Malene:

This firm represents the Informed Consent Action Network (“ICAN”). On behalf of ICAN, please provide the following records to foia@sirillp.com in electronic form:

All emails sent or received by Michael Gordon Joyce between November 1, 2019 and the present that include the term Moderna or mRNA-1273 in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.

Fees and charges for this search are to be waived pursuant to 5 U.S.C. § 552 (a)(4)(A)(iii) since ICAN is a not-for-profit 501(c)(3) organization and its mission is to raise public awareness about vaccine safety and provide the public with information to give informed consent. As part of its mission, ICAN investigates and disseminates information regarding vaccine safety, including through their website, and through press events and releases. ICAN is seeking the information in this FOIA request to allow it to contribute to the public understanding of the government’s vaccine safety programs, including the government’s efforts to promote vaccine safety. The information requested in this FOIA request will not contribute to any commercial activities.

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state your reasons for not invoking your discretionary powers to release the requested documents in the public interest. Such statements may help to avoid unnecessary appeal and litigation. ICAN of course reserves all rights to appeal the withholding or deletion of any information.

Access to the requested records should be granted within twenty (20) business days from the date of your receipt of this letter. Failure to respond in a timely manner shall be viewed as a denial of this request and ICAN may immediately file an administrative appeal.

If you would like to discuss our requests or any issues raised in this letter, please feel free to contact me at (212) 532-1091 or via email at foia@sirillp.com during normal business hours. Thank you for your time and attention to this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'A. Siri', with a stylized flourish at the end.

Aaron Siri, Esq.

Exhibit H

Siri | Glimstad

200 Park Avenue, Seventeenth Floor, New York, NY 10166
sirillp.com | P: (212) 532-1091 | F: (646) 417-5967

FREEDOM OF INFORMATION ACT REQUEST

VIA EMAIL

April 9, 2020

Gorka Garcia-Malene
Freedom of Information Act Officer
National Institutes of Health
Building 31 Room 5B35
9000 Rockville Pike
Bethesda, Maryland 20892
Email: nihfoia@mail.nih.gov

Re: Masaru Kanekiyo Emails Regarding Moderna or mRNA-1273, November 2019 – Present (IR#0274)

Dear Mr. Garcia-Malene:

This firm represents the Informed Consent Action Network (“ICAN”). On behalf of ICAN, please provide the following records to foia@sirillp.com in electronic form:

All emails sent or received by Masaru Kanekiyo between November 1, 2019 and the present that include the term Moderna or mRNA-1273 in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.

Fees and charges for this search are to be waived pursuant to 5 U.S.C. § 552 (a)(4)(A)(iii) since ICAN is a not-for-profit 501(c)(3) organization and its mission is to raise public awareness about vaccine safety and provide the public with information to give informed consent. As part of its mission, ICAN investigates and disseminates information regarding vaccine safety, including through their website, and through press events and releases. ICAN is seeking the information in this FOIA request to allow it to contribute to the public understanding of the government’s vaccine safety programs, including the government’s efforts to promote vaccine safety. The information requested in this FOIA request will not contribute to any commercial activities.

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state your reasons for not invoking your discretionary powers to release the requested documents in the public interest. Such statements may help to avoid unnecessary appeal and litigation. ICAN of course reserves all rights to appeal the withholding or deletion of any information.

Access to the requested records should be granted within twenty (20) business days from the date of your receipt of this letter. Failure to respond in a timely manner shall be viewed as a denial of this request and ICAN may immediately file an administrative appeal.

If you would like to discuss our requests or any issues raised in this letter, please feel free to contact me at (212) 532-1091 or via email at foia@sirillp.com during normal business hours. Thank you for your time and attention to this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'A. Siri', written in a cursive style.

Aaron Siri, Esq.

Exhibit I

Siri | Glimstad

200 Park Avenue, Seventeenth Floor, New York, NY 10166
sirillp.com | P: (212) 532-1091 | F: (646) 417-5967

FREEDOM OF INFORMATION ACT REQUEST

VIA EMAIL

April 9, 2020

Gorka Garcia-Malene
Freedom of Information Act Officer
National Institutes of Health
Building 31 Room 5B35
9000 Rockville Pike
Bethesda, Maryland 20892
Email: nihfoia@mail.nih.gov

*Re: Olubukola Mary Abisola Abiona Emails Regarding Moderna or mRNA-1273,
November 2019 – Present (IR#0275)*

Dear Mr. Garcia-Malene:

This firm represents the Informed Consent Action Network (“ICAN”). On behalf of ICAN, please provide the following records to foia@sirillp.com in electronic form:

All emails sent or received by Olubukola Mary Abisola Abiona between November 1, 2019 and the present that include the term Moderna or mRNA-1273 in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.

Fees and charges for this search are to be waived pursuant to 5 U.S.C. § 552 (a)(4)(A)(iii) since ICAN is a not-for-profit 501(c)(3) organization and its mission is to raise public awareness about vaccine safety and provide the public with information to give informed consent. As part of its mission, ICAN investigates and disseminates information regarding vaccine safety, including through their website, and through press events and releases. ICAN is seeking the information in this FOIA request to allow it to contribute to the public understanding of the government’s vaccine safety programs, including the government’s efforts to promote vaccine safety. The information requested in this FOIA request will not contribute to any commercial activities.

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If you would like to discuss our requests or any issues raised in this letter, please feel free to contact me at (212) 532-1091 or via email at foia@sirillp.com during normal business hours. Thank you for your time and attention to this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'A. Siri', written in a cursive style.

Aaron Siri, Esq.

Exhibit J

Siri | Glimstad

200 Park Avenue, Seventeenth Floor, New York, NY 10166
sirillp.com | P: (212) 532-1091 | F: (646) 417-5967

FREEDOM OF INFORMATION ACT REQUEST

VIA EMAIL

April 29, 2020

Gorka Garcia-Malene
Freedom of Information Act Officer
National Institutes of Health
Building 31 Room 5B35
9000 Rockville Pike
Bethesda, Maryland 20892
Email: nihfoia@mail.nih.gov

Re: Hadi Yassine Emails Regarding Moderna or mRNA-1273, November 2019 – Present (IR#0278)

Dear Mr. Garcia-Malene:

This firm represents the Informed Consent Action Network (“ICAN”). On behalf of ICAN, please provide the following records to foia@sirillp.com in electronic form:

All emails sent or received by Hadi Yassine between November 1, 2019 and the present that include the term Moderna or mRNA-1273 in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.

Fees and charges for this search are to be waived pursuant to 5 U.S.C. § 552 (a)(4)(A)(iii) since ICAN is a not-for-profit 501(c)(3) organization and its mission is to raise public awareness about public health safety and provide the public with information to give informed consent regarding related health interventions. As part of its mission, ICAN investigates and disseminates information regarding public health safety issues, including through their website, and through press events and releases. ICAN is seeking the information in this FOIA request to allow it to contribute to its mission. The information requested in this FOIA request will not contribute to any commercial activities.

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Access to the requested records should be granted within twenty (20) business days from the date of your receipt of this letter. Failure to respond in a timely manner shall be viewed as a denial of this request and ICAN may immediately file an administrative appeal.

If you would like to discuss our requests or any issues raised in this letter, please feel free to contact me at (212) 532-1091 or via email at foia@sirillp.com during normal business hours. Thank you for your time and attention to this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'ASiri', written in a cursive style.

Aaron Siri, Esq.

Exhibit K

Siri | Glimstad

200 Park Avenue, Seventeenth Floor, New York, NY 10166
sirillp.com | P: (212) 532-1091 | F: (646) 417-5967

FREEDOM OF INFORMATION ACT REQUEST

VIA EMAIL

April 29, 2020

Gorka Garcia-Malene
Freedom of Information Act Officer
National Institutes of Health
Building 31 Room 5B35
9000 Rockville Pike
Bethesda, Maryland 20892
Email: nihfoia@mail.nih.gov

Re: *Anthony Fauci Emails Regarding COVID-19, November 2019 – Present (IR#0279)*

Dear Mr. Garcia-Malene:

This firm represents the Informed Consent Action Network (“ICAN”). On behalf of ICAN, please provide the following records to foia@sirillp.com in electronic form:

All emails sent or received by Anthony Fauci between November 1, 2019 and the present that include the term SARS-CoV, COVID, COVID-19 or coronavirus in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.

Fees and charges for this search are to be waived pursuant to 5 U.S.C. § 552 (a)(4)(A)(iii) since ICAN is a not-for-profit 501(c)(3) organization and its mission is to raise public awareness about public health safety and provide the public with information to give informed consent regarding related health interventions. As part of its mission, ICAN investigates and disseminates information regarding public health safety issues, including through their website, and through press events and releases. ICAN is seeking the information in this FOIA request to allow it to contribute to its mission. The information requested in this FOIA request will not contribute to any commercial activities.

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If you would like to discuss our requests or any issues raised in this letter, please feel free to contact me at (212) 532-1091 or via email at foia@sirillp.com during normal business hours. Thank you for your time and attention to this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'AS', with a long horizontal flourish extending to the right.

Aaron Siri, Esq.

Exhibit L

Siri | Glimstad

200 Park Avenue, Seventeenth Floor, New York, NY 10166
sirillp.com | P: (212) 532-1091 | F: (646) 417-5967

FREEDOM OF INFORMATION ACT REQUEST

VIA EMAIL

April 29, 2020

Gorka Garcia-Malene
Freedom of Information Act Officer
National Institutes of Health
Building 31 Room 5B35
9000 Rockville Pike
Bethesda, Maryland 20892
Email: nihfoia@mail.nih.gov

Re: Barney Graham Emails Regarding COVID-19, November 2019 – Present (IR#0280)

Dear Mr. Garcia-Malene:

This firm represents the Informed Consent Action Network (“ICAN”). On behalf of ICAN, please provide the following records to foia@sirillp.com in electronic form:

All emails sent or received by Barney Graham between November 1, 2019 and the present that include the term SARS-CoV, COVID, COVID-19 or coronavirus in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.

Fees and charges for this search are to be waived pursuant to 5 U.S.C. § 552 (a)(4)(A)(iii) since ICAN is a not-for-profit 501(c)(3) organization and its mission is to raise public awareness about public health safety and provide the public with information to give informed consent regarding related health interventions. As part of its mission, ICAN investigates and disseminates information regarding public health safety issues, including through their website, and through press events and releases. ICAN is seeking the information in this FOIA request to allow it to contribute to its mission. The information requested in this FOIA request will not contribute to any commercial activities.

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If you would like to discuss our requests or any issues raised in this letter, please feel free to contact me at (212) 532-1091 or via email at foia@sirillp.com during normal business hours. Thank you for your time and attention to this matter.

Very truly yours,

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Aaron Siri, Esq.

Exhibit M

Siri | Glimstad

200 Park Avenue, Seventeenth Floor, New York, NY 10166
sirillp.com | P: (212) 532-1091 | F: (646) 417-5967

FREEDOM OF INFORMATION ACT REQUEST

REQUEST FOR EXPEDITED PROCESSING

VIA EMAIL

May 22, 2020

Gorka Garcia-Malene
Freedom of Information Act Officer
National Institutes of Health
Building 31, Room 5B35
9000 Rockville Pike
Bethesda, MD 20892
Email: nihfoia@mail.nih.gov

Re: *NIAID Safety & Efficacy Data for mRNA-1273 (IR#303)*

Dear Sir or Madam:

This firm represents the Informed Consent Action Network (“ICAN”). On behalf of ICAN, please provide the following records to foia@sirillp.com in electronic form:

All safety and efficacy data and information regarding mRNA-1273, including from the Phase I clinical trial of this experimental vaccine conducted by the National Institute of Allergy and Infectious Diseases.

Request For Expedited Processing

ICAN requests expedited processing for this request. ICAN is “primarily engaged in disseminating information to the general public” and there is an “urgency to inform the public concerning actual or alleged Federal Government activity.” 5 U.S.C. § 552(a)(6)(E)(v)(II).

Specifically, ICAN’s mission is to raise public awareness about public health safety and to provide the public with information to give informed consent regarding related health interventions. mRNA-1273 is a leading, if not the leading, experimental vaccine against novel coronavirus, SARS-CoV-2, also known as COVID-19. Information regarding this vaccine, and in particular the safety and efficacy information regarding this vaccine, are a matter of immediate concern to the American public, given the extensive media and public interest in the fate of the clinical trials for preventing this virus and the pressures placed on the NIH developing a vaccine for COVID-19. News articles have also widely reported about the above vaccine and its clinical trials and hence the information requested above is a matter of immediate attention and concern to

the American public. *See, e.g.*, <https://www.nih.gov/news-events/news-releases/nih-clinical-trial-investigational-vaccine-covid-19-begins>; <https://science.sciencemag.org/content/early/2020/02/19/science.abb2507/tab-pdf?versioned=true>; <https://time.com/5835785/moderna-coronavirus-vaccine-phase-2/>; <https://www.businesswire.com/news/home/20200427005839/en/Moderna-Announces-IND-Submitted-U.S.-FDA-Phase>; <https://www.cnbc.com/2020/05/07/fda-approves-moderna-vaccine-candidate-for-phase-2-study.html>; <https://www.modernatx.com/modernas-work-potential-vaccine-against-covid-19>; <https://www.nytimes.com/2020/05/07/health/coronavirus-vaccine-moderna.html>

ICAN certifies that the information in the request is true and correct to the best of ICAN's knowledge and belief.

Fees and charges for this search are to be waived pursuant to 5 U.S.C. § 552 (a)(4)(A)(iii) since ICAN is a not-for-profit 501(c)(3) organization and its mission is to raise public awareness about public health safety and provide the public with information to give informed consent regarding related health interventions. As part of its mission, ICAN investigates and disseminates information regarding public health safety issues, including through their website, and through press events and releases. ICAN is seeking the information in this FOIA request to allow it to contribute to its mission. The information requested in this FOIA request will not contribute to any commercial activities.

Please note that the FOIA provides that if only portions of a requested file are exempted from release, the remainder must still be released. We, therefore, request that we be provided with all non-exempt portions which are reasonably segregable. We further request that you describe any deleted or withheld material in detail and specify the statutory basis for the denial as well as your reasons for believing that the alleged statutory justification applies. Please also separately state your reasons for not invoking your discretionary powers to release the requested documents in the public interest. Such statements may help to avoid unnecessary appeal and litigation. ICAN of course reserves all rights to appeal the withholding or deletion of any information.

Access to the requested records should be granted within twenty (20) business days from the date of your receipt of this letter. Failure to respond in a timely manner shall be viewed as a denial of this request and ICAN may immediately file an administrative appeal.

If you would like to discuss our requests or any issues raised in this letter, please feel free to contact me at (212) 532-1091 or via email at foia@sirillp.com during normal business hours. Thank you for your time and attention to this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'A. Siri', written in a cursive style.

Aaron Siri, Esq.

Exhibit N

Subject: Status Update for Request #53821

Date: Friday, April 24, 2020 at 8:49:02 AM Pacific Daylight Time

From: FOIA_noreply@nih.gov

To: S&G Information Request Staff

Dear Aaron Siri,

The status of your FOIA request #53821 has been updated to the following status 'In Process'. To log into the NIH FOIA Public Portal click on the Application URL below.

<https://foiaportal.nih.gov>

Sincerely,
NIH

Exhibit O

Subject: Status Update for Request #53822

Date: Friday, March 27, 2020 at 1:45:24 PM Pacific Daylight Time

From: FOIA_noreply@nih.gov

To: S&G Information Request Staff

Dear Allison Lucas,

The status of your FOIA request #53822 has been updated to the following status 'Received'. To log into the NIH FOIA Public Portal click on the Application URL below.

<https://foiaportal.nih.gov>

Sincerely,

National Institutes of Health

Subject: Status Update for Request #53826

Date: Friday, March 27, 2020 at 2:14:28 PM Pacific Daylight Time

From: FOIA_noreply@nih.gov

To: S&G Information Request Staff

Dear Allison Lucas,

The status of your FOIA request #53826 has been updated to the following status 'Received'. To log into the NIH FOIA Public Portal click on the Application URL below.

<https://foiaportal.nih.gov>

Sincerely,

National Institutes of Health

Exhibit P



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Freedom of Information Office
5601 Fishers Lane, Room 6G50
Bethesda, Maryland 20892
Tel (301) 451-5109
Fax (301) 480-0904/ Email foia@niaid.nih.gov

National Institutes of Health
National Institute of Allergy
and Infectious Diseases
Bethesda, MD 20892

April 10, 2020

Aaron Siri, Esq.
Siri | Glimstad LLP
200 Park Avenue
Seventeenth Floor
New York, NY 10166

Re: FOI Case No. 53963

Dear Mr. Siri:

This acknowledges your April 9, 2020 Freedom of Information Act (FOIA) request which was submitted to the National Institutes of Health (NIH) FOIA Office and received in that office the same day. Your request was referred to the National Institute of Allergy and Infectious Diseases (NIAID) FOIA Office because of our responsibilities under the FOIA. You requested the following information:

“All emails sent or received by Anthony Fauci between November 1, 2019 and the present that include the term Moderna or mRNA-1273 in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.”

We are searching the files of the Office of the Director, NIAID for records responsive to your request. If any documents responsive to your request are located, they will be reviewed for releasability, and all releasable information will be sent to you. We will do everything possible to comply with your request in a timely manner. Please feel free to contact me at 301-451-5109 or email me at foia@niaid.nih.gov for additional information or to inquire about the status of your request.

Provisions of the FOIA allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the Department of Health and Human Services (HHS) FOIA Regulations as they apply to “other” requesters. As an “other” category requester you will be charged for duplication at 10-cents per page although the first 100 pages are free; 2 hours of search time are free and thereafter search time is charged at the hourly rate (\$23.00, \$46.00 and \$83.00) of the searcher; there is no charge for review time. Please be advised that the HHS FOIA

Exhibit P

Page 2 - Letter to Aaron Siri
RE: FOI Case No. 53963

Regulations allow us to charge for search time even if we do not locate any responsive records or if we determine that some or all of the responsive records are exempt under one of the FOIA's nine exemptions. Because we are uncertain that any applicable fees will exceed our minimum charge (\$25.00), we are not addressing your request for a fee waiver at this time. However, if we determine there will be fees associated with processing your request, we will contact you at that time.

At any time during the processing of your request, you may seek assistance from the NIAID FOIA Public Liaison:

NIAID FOIA Public Liaison
Margaret Moore
5601 Fishers Lane, Suite 6G51
Bethesda, MD 20853
301-451-5109 (phone)
301-480-0904 (fax)
mm52s@nih.gov (email)

Sincerely,

Lauren Bartok
Government Information Specialist
National Institute of Allergy and Infectious Diseases



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Freedom of Information Office
5601 Fishers Lane, Room 6G50
Bethesda, Maryland 20892
Tel (301) 451-5109
Fax (301) 480-0904/ Email foia@niaid.nih.gov

National Institutes of Health
National Institute of Allergy
and Infectious Diseases
Bethesda, MD 20892

April 10, 2020

Aaron Siri, Esq.
Siri | Glimstad LLP
200 Park Avenue
Seventeenth Floor
New York, NY 10166

Re: FOI Case No. 53962

Dear Mr. Siri:

This acknowledges your April 9, 2020 Freedom of Information Act (FOIA) request which was submitted to the National Institutes of Health (NIH) FOIA Office and received in that office the same day. Your request was referred to the National Institute of Allergy and Infectious Diseases (NIAID) FOIA Office because of our responsibilities under the FOIA. You requested the following information:

“All emails sent or received by Barney Graham between November 1, 2019 and the present that include the term Moderna or mRNA 1273 in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.”

We are searching the files of the Vaccine Research Center, NIAID for records responsive to your request. If any documents responsive to your request are located, they will be reviewed for releasability, and all releasable information will be sent to you. We will do everything possible to comply with your request in a timely manner. Please feel free to contact me at 301-451-5109 or email me at foia@niaid.nih.gov for additional information or to inquire about the status of your request.

Provisions of the FOIA allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the Department of Health and Human Services (HHS) FOIA Regulations as they apply to “other” requesters. As an “other” category requester you will be charged for duplication at 10-cents per page although the first 100 pages are free; 2 hours of search time are free and thereafter search time is charged at the hourly rate (\$23.00, \$46.00 and \$83.00) of the searcher; there is no charge for review time. Please be advised that the HHS FOIA

Exhibit P

Page 2 - Letter to Aaron Siri
RE: FOI Case No. 53962

Regulations allow us to charge for search time even if we do not locate any responsive records or if we determine that some or all of the responsive records are exempt under one of the FOIA's nine exemptions. Because we are uncertain that any applicable fees will exceed our minimum charge (\$25.00), we are not addressing your request for a fee waiver at this time. However, if we determine there will be fees associated with processing your request, we will contact you at that time.

At any time during the processing of your request, you may seek assistance from the NIAID FOIA Public Liaison:

NIAID FOIA Public Liaison
Margaret Moore
5601 Fishers Lane, Suite 6G51
Bethesda, MD 20853
301-451-5109 (phone)
301-480-0904 (fax)
mm52s@nih.gov (email)

Sincerely,

Lauren Bartok
Government Information Specialist
National Institute of Allergy and Infectious Diseases



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Freedom of Information Office
5601 Fishers Lane, Room 6G50
Bethesda, Maryland 20892
Tel (301) 451-5109
Fax (301) 480-0904/ Email foia@niaid.nih.gov

National Institutes of Health
National Institute of Allergy
and Infectious Diseases
Bethesda, MD 20892

April 10, 2020

Aaron Siri, Esq.
Siri | Glimstad LLP
200 Park Avenue
Seventeenth Floor
New York, NY 10166

Re: FOI Case No. 53961

Dear Mr. Siri:

This acknowledges your April 9, 2020 Freedom of Information Act (FOIA) request which was submitted to the National Institutes of Health (NIH) FOIA Office and received in that office the same day. Your request was referred to the National Institute of Allergy and Infectious Diseases (NIAID) FOIA Office because of our responsibilities under the FOIA. You requested the following information:

“All emails sent or received by Kizzmekia Corbett between November 1, 2019 and the present that include the term Moderna or mRNA 1273 in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.”

We are searching the files of the Vaccine Research Center, NIAID for records responsive to your request. If any documents responsive to your request are located, they will be reviewed for releasability, and all releasable information will be sent to you. We will do everything possible to comply with your request in a timely manner. Please feel free to contact me at 301-451-5109 or email me at foia@niaid.nih.gov for additional information or to inquire about the status of your request.

Provisions of the FOIA allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the Department of Health and Human Services (HHS) FOIA Regulations as they apply to “other” requesters. As an “other” category requester you will be charged for duplication at 10-cents per page although the first 100 pages are free; 2 hours of search time are free and thereafter search time is charged at the hourly rate (\$23.00, \$46.00 and \$83.00) of the searcher; there is no charge for review time. Please be advised that the HHS FOIA

Exhibit P

Page 2 - Letter to Aaron Siri

RE: FOI Case No. 53961

Regulations allow us to charge for search time even if we do not locate any responsive records or if we determine that some or all of the responsive records are exempt under one of the FOIA's nine exemptions. Because we are uncertain that any applicable fees will exceed our minimum charge (\$25.00), we are not addressing your request for a fee waiver at this time. However, if we determine there will be fees associated with processing your request, we will contact you at that time.

At any time during the processing of your request, you may seek assistance from the NIAID FOIA Public Liaison:

NIAID FOIA Public Liaison
Margaret Moore
5601 Fishers Lane, Suite 6G51
Bethesda, MD 20853
301-451-5109 (phone)
301-480-0904 (fax)
mm52s@nih.gov (email)

Sincerely,

Lauren Bartok
Government Information Specialist
National Institute of Allergy and Infectious Diseases



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Freedom of Information Office
5601 Fishers Lane, Room 6G50
Bethesda, Maryland 20892
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Fax (301) 480-0904/ Email foia@niaid.nih.gov

National Institutes of Health
National Institute of Allergy
and Infectious Diseases
Bethesda, MD 20892

April 10, 2020

Aaron Siri, Esq.
Siri | Glimstad LLP
200 Park Avenue
Seventeenth Floor
New York, NY 10166

Re: FOI Case No. 53958

Dear Mr. Siri:

This acknowledges your April 9, 2020 Freedom of Information Act (FOIA) request which was submitted to the National Institutes of Health (NIH) FOIA Office and received in that office the same day. Your request was referred to the National Institute of Allergy and Infectious Diseases (NIAID) FOIA Office because of our responsibilities under the FOIA. You requested the following information:

“All emails sent or received by Michael Gordon Joyce between November 1, 2019 and the present that include the term Moderna or mRNA 1273 in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.”

We are searching the files of the Vaccine Research Center, NIAID for records responsive to your request. If any documents responsive to your request are located, they will be reviewed for releasability, and all releasable information will be sent to you. We will do everything possible to comply with your request in a timely manner. Please feel free to contact me at 301-451-5109 or email me at foia@niaid.nih.gov for additional information or to inquire about the status of your request.

Provisions of the FOIA allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the Department of Health and Human Services (HHS) FOIA Regulations as they apply to “other” requesters. As an “other” category requester you will be charged for duplication at 10-cents per page although the first 100 pages are free; 2 hours of search time are free and thereafter search time is charged at the hourly rate (\$23.00, \$46.00 and \$83.00) of the searcher; there is no charge for review time. Please be advised that the HHS FOIA

Exhibit P

Page 2 - Letter to Aaron Siri
RE: FOI Case No. 53958

Regulations allow us to charge for search time even if we do not locate any responsive records or if we determine that some or all of the responsive records are exempt under one of the FOIA's nine exemptions. Because we are uncertain that any applicable fees will exceed our minimum charge (\$25.00), we are not addressing your request for a fee waiver at this time. However, if we determine there will be fees associated with processing your request, we will contact you at that time.

At any time during the processing of your request, you may seek assistance from the NIAID FOIA Public Liaison:

NIAID FOIA Public Liaison
Margaret Moore
5601 Fishers Lane, Suite 6G51
Bethesda, MD 20853
301-451-5109 (phone)
301-480-0904 (fax)
mm52s@nih.gov (email)

Sincerely,

Lauren Bartok
Government Information Specialist
National Institute of Allergy and Infectious Diseases



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Freedom of Information Office
5601 Fishers Lane, Room 6G50
Bethesda, Maryland 20892
Tel (301) 451-5109
Fax (301) 480-0904/ Email foia@niaid.nih.gov

National Institutes of Health
National Institute of Allergy
and Infectious Diseases
Bethesda, MD 20892

April 10, 2020

Aaron Siri, Esq.
Siri | Glimstad LLP
200 Park Avenue
Seventeenth Floor
New York, NY 10166

Re: FOI Case No. 53960

Dear Mr. Siri:

This acknowledges your April 9, 2020 Freedom of Information Act (FOIA) request which was submitted to the National Institutes of Health (NIH) FOIA Office and received in that office the same day. Your request was referred to the National Institute of Allergy and Infectious Diseases (NIAID) FOIA Office because of our responsibilities under the FOIA. You requested the following information:

“All emails sent or received by Masaru Kanekiyo between November 1, 2019 and the present that include the term Moderna or mRNA 1273 in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.”

We are searching the files of the Vaccine Research Center, NIAID for records responsive to your request. If any documents responsive to your request are located, they will be reviewed for releasability, and all releasable information will be sent to you. We will do everything possible to comply with your request in a timely manner. Please feel free to contact me at 301-451-5109 or email me at foia@niaid.nih.gov for additional information or to inquire about the status of your request.

Provisions of the FOIA allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the Department of Health and Human Services (HHS) FOIA Regulations as they apply to “other” requesters. As an “other” category requester you will be charged for duplication at 10-cents per page although the first 100 pages are free; 2 hours of search time are free and thereafter search time is charged at the hourly rate (\$23.00, \$46.00 and \$83.00) of the searcher; there is no charge for review time. Please be advised that the HHS FOIA

Exhibit P

Page 2 - Letter to Aaron Siri
RE: FOI Case No. 53960

Regulations allow us to charge for search time even if we do not locate any responsive records or if we determine that some or all of the responsive records are exempt under one of the FOIA's nine exemptions. Because we are uncertain that any applicable fees will exceed our minimum charge (\$25.00), we are not addressing your request for a fee waiver at this time. However, if we determine there will be fees associated with processing your request, we will contact you at that time.

At any time during the processing of your request, you may seek assistance from the NIAID FOIA Public Liaison:

NIAID FOIA Public Liaison
Margaret Moore
5601 Fishers Lane, Suite 6G51
Bethesda, MD 20853
301-451-5109 (phone)
301-480-0904 (fax)
mm52s@nih.gov (email)

Sincerely,

Lauren Bartok
Government Information Specialist
National Institute of Allergy and Infectious Diseases



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Freedom of Information Office
5601 Fishers Lane, Room 6G50
Bethesda, Maryland 20892
Tel (301) 451-5109
Fax (301) 480-0904/ Email foia@niaid.nih.gov

National Institutes of Health
National Institute of Allergy
and Infectious Diseases
Bethesda, MD 20892

April 10, 2020

Aaron Siri, Esq.
Siri | Glimstad LLP
200 Park Avenue
Seventeenth Floor
New York, NY 10166

Re: FOI Case No. 53959

Dear Mr. Siri:

This acknowledges your April 9, 2020 Freedom of Information Act (FOIA) request which was submitted to the National Institutes of Health (NIH) FOIA Office and received in that office the same day. Your request was referred to the National Institute of Allergy and Infectious Diseases (NIAID) FOIA Office because of our responsibilities under the FOIA. You requested the following information:

“All emails sent or received by Olubukola Mary Abisola Abiona between November 1, 2019 and the present that include the term Moderna or mRNA 1273 in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.”

We are searching the files of the Vaccine Research Center, NIAID for records responsive to your request. If any documents responsive to your request are located, they will be reviewed for releasability, and all releasable information will be sent to you. We will do everything possible to comply with your request in a timely manner. Please feel free to contact me at 301-451-5109 or email me at foia@niaid.nih.gov for additional information or to inquire about the status of your request.

Provisions of the FOIA allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the Department of Health and Human Services (HHS) FOIA Regulations as they apply to “other” requesters. As an “other” category requester you will be charged for duplication at 10-cents per page although the first 100 pages are free; 2 hours of search time are free and thereafter search time is charged at the hourly rate (\$23.00, \$46.00 and

Exhibit P

Page 2 - Letter to Aaron Siri
RE: FOI Case No. 53959

\$83.00) of the searcher; there is no charge for review time. Please be advised that the HHS FOIA Regulations allow us to charge for search time even if we do not locate any responsive records or if we determine that some or all of the responsive records are exempt under one of the FOIA's nine exemptions. Because we are uncertain that any applicable fees will exceed our minimum charge (\$25.00), we are not addressing your request for a fee waiver at this time. However, if we determine there will be fees associated with processing your request, we will contact you at that time.

At any time during the processing of your request, you may seek assistance from the NIAID FOIA Public Liaison:

NIAID FOIA Public Liaison
Margaret Moore
5601 Fishers Lane, Suite 6G51
Bethesda, MD 20853
301-451-5109 (phone)
301-480-0904 (fax)
mm52s@nih.gov (email)

Sincerely,

Lauren Bartok
Government Information Specialist
National Institute of Allergy and Infectious Diseases

Exhibit Q



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Freedom of Information Office
5601 Fishers Lane, Room 6G50
Bethesda, Maryland 20892
Tel (301) 451-5109
Fax (301) 480-0904/ Email foia@niaid.nih.gov

National Institutes of Health
National Institute of Allergy
and Infectious Diseases
Bethesda, MD 20892

May 5, 2020

Aaron Siri, Esq.
Siri | Glimstad LLP
200 Park Avenue
Seventeenth Floor
New York, NY 10166
foia@sirillp.com

Re: FOI Case No. 54105

Dear Mr. Siri:

This acknowledges your April 29, 2020 Freedom of Information Act (FOIA) request addressed to Gorka Garcia-Malene, FOIA Officer, National Institutes of Health (NIH), which was received by the National Institute of Allergy and Infectious Diseases (NIAID) FOIA Office the same day. You requested the following information:

“All emails sent or received by Hadi Yassine between November 1, 2019 and the present that include the term Moderna or mRNA 1273 in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.”

We are searching the files of the Vaccine Research Center, NIAID for records responsive to your request. If any documents responsive to your request are located, they will be reviewed for releasability, and all releasable information will be sent to you. We will do everything possible to comply with your request in a timely manner. Please feel free to contact me at 301-451-5109 or email me at foia@niaid.nih.gov for additional information or to inquire about the status of your request.

Provisions of the FOIA allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the Department of Health and Human Services (HHS) FOIA Regulations as they apply to “other” requesters. As an “other” category requester you will be charged for duplication at 10-cents per page although the first 100 pages are free; 2 hours of search time are free and thereafter search time is charged at the hourly rate (\$23.00, \$46.00 and \$83.00) of the searcher; there is no charge for review time. Please be advised that the HHS FOIA

Exhibit Q

Page 2 - Letter to Aaron Siri
RE: FOI Case No. 54105

Regulations allow us to charge for search time even if we do not locate any responsive records or if we determine that some or all of the responsive records are exempt under one of the FOIA's nine exemptions. Because we are uncertain that any applicable fees will exceed our minimum charge (\$25.00), we are not addressing your request for a fee waiver at this time. However, if we determine there will be fees associated with processing your request, we will contact you at that time.

At any time during the processing of your request, you may seek assistance from the NIAID FOIA Public Liaison:

NIAID FOIA Public Liaison
Margaret Moore
5601 Fishers Lane, Suite 6G51
Bethesda, MD 20853
301-451-5109 (phone)
301-480-0904 (fax)
mm52s@nih.gov (email)

Sincerely,

Lauren Bartok
Government Information Specialist
National Institute of Allergy and Infectious Diseases



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Freedom of Information Office
5601 Fishers Lane, Room 6G50
Bethesda, Maryland 20892
Tel (301) 451-5109
Fax (301) 480-0904/ Email foia@niaid.nih.gov

National Institutes of Health
National Institute of Allergy
and Infectious Diseases
Bethesda, MD 20892

May 5, 2020

Aaron Siri, Esq.
Siri | Glimstad LLP
200 Park Avenue
Seventeenth Floor
New York, NY 10166
foia@sirillp.com

Re: FOI Case No. 54106

Dear Mr. Siri:

This acknowledges your April 29, 2020 Freedom of Information Act (FOIA) request addressed to Gorka Garcia-Malene, FOIA Officer, National Institutes of Health (NIH), which was received by the National Institute of Allergy and Infectious Diseases (NIAID) FOIA Office the same day. You requested the following information:

“All emails sent or received by Anthony Fauci between November 1, 2019 and the present that include the term SARS CoV, COVID, COVID 19 or coronavirus in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.”

We are searching the files of the Office of the Director, NIAID for records responsive to your request. If any documents responsive to your request are located, they will be reviewed for releasability, and all releasable information will be sent to you. We will do everything possible to comply with your request in a timely manner. Please feel free to contact me at 301-451-5109 or email me at foia@niaid.nih.gov for additional information or to inquire about the status of your request.

Provisions of the FOIA allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the Department of Health and Human Services (HHS) FOIA Regulations as they apply to “other” requesters. As an “other” category requester you will be charged for duplication at 10-cents per page although the first 100 pages are free; 2 hours of search time are free and thereafter search time is charged at the hourly rate (\$23.00, \$46.00 and

Exhibit Q

Page 2 - Letter to Aaron Siri
RE: FOI Case No. 54106

\$83.00) of the searcher; there is no charge for review time. Please be advised that the HHS FOIA Regulations allow us to charge for search time even if we do not locate any responsive records or if we determine that some or all of the responsive records are exempt under one of the FOIA's nine exemptions. Because we are uncertain that any applicable fees will exceed our minimum charge (\$25.00), we are not addressing your request for a fee waiver at this time. However, if we determine there will be fees associated with processing your request, we will contact you at that time.

At any time during the processing of your request, you may seek assistance from the NIAID FOIA Public Liaison:

NIAID FOIA Public Liaison
Margaret Moore
5601 Fishers Lane, Suite 6G51
Bethesda, MD 20853
301-451-5109 (phone)
301-480-0904 (fax)
mm52s@nih.gov (email)

Sincerely,

Lauren Bartok
Government Information Specialist
National Institute of Allergy and Infectious Diseases



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Freedom of Information Office
5601 Fishers Lane, Room 6G50
Bethesda, Maryland 20892
Tel (301) 451-5109
Fax (301) 480-0904/ Email foia@niaid.nih.gov

National Institutes of Health
National Institute of Allergy
and Infectious Diseases
Bethesda, MD 20892

May 5, 2020

Aaron Siri, Esq.
Siri | Glimstad LLP
200 Park Avenue
Seventeenth Floor
New York, NY 10166
foia@sirillp.com

Re: FOI Case No. 54107

Dear Mr. Siri:

This acknowledges your April 29, 2020 Freedom of Information Act (FOIA) request addressed to Gorka Garcia-Malene, FOIA Officer, National Institutes of Health (NIH), which was received by the National Institute of Allergy and Infectious Diseases (NIAID) FOIA Office the same day. You requested the following information:

“All emails sent or received by Barney Graham between November 1, 2019 and the present that include the term SARS CoV, COVID, COVID 19 or coronavirus in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.”

We are searching the files of the Vaccine Research Center, NIAID for records responsive to your request. If any documents responsive to your request are located, they will be reviewed for releasability, and all releasable information will be sent to you. We will do everything possible to comply with your request in a timely manner. Please feel free to contact me at 301-451-5109 or email me at foia@niaid.nih.gov for additional information or to inquire about the status of your request.

Provisions of the FOIA allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the Department of Health and Human Services (HHS) FOIA Regulations as they apply to “other” requesters. As an “other” category requester you will be charged for duplication at 10-cents per page although the first 100 pages are free; 2 hours of search time are free and thereafter search time is charged at the hourly rate (\$23.00, \$46.00 and

Exhibit Q

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RE: FOI Case No. 54107

\$83.00) of the searcher; there is no charge for review time. Please be advised that the HHS FOIA Regulations allow us to charge for search time even if we do not locate any responsive records or if we determine that some or all of the responsive records are exempt under one of the FOIA's nine exemptions. Because we are uncertain that any applicable fees will exceed our minimum charge (\$25.00), we are not addressing your request for a fee waiver at this time. However, if we determine there will be fees associated with processing your request, we will contact you at that time.

At any time during the processing of your request, you may seek assistance from the NIAID FOIA Public Liaison:

NIAID FOIA Public Liaison
Margaret Moore
5601 Fishers Lane, Suite 6G51
Bethesda, MD 20853
301-451-5109 (phone)
301-480-0904 (fax)
mm52s@nih.gov (email)

Sincerely,

Lauren Bartok
Government Information Specialist
National Institute of Allergy and Infectious Diseases

Exhibit R



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

National Institutes of Health
Freedom of Information Office
Building 31, Room 5B-35
31 Center Drive, MSC 2107
Bethesda, Maryland 20892-2107
phone: (301) 496-5633
fax: (301) 402-4541

Via Email: foia@sirillp.com

June 8, 2020

Mr. Aaron Siri
SIRI & GLIMSTAD LLP
200 Park Avenue
Seventeenth Floor
New York, NY 10166

Re: FOI Case No. 54464

Dear Mr. Siri,

This is in reference to your May 22, 2020, Freedom of Information Act (FOIA) request addressed to the FOIA Office, National Institute of Allergy and Infectious Diseases, (NIAID) National Institutes of Health (NIH), and received in this office the same day. You requested a copy of all safety and efficacy data and information regarding mRNA-1273, including from the Phase I clinical trial of this experimental vaccine conducted by the National Institute of Allergy and Infectious Diseases.

You also requested expedited processing on behalf of your client.

The FOIA, 5 U.S.C. §552(a)(6)(E), requires agencies to consider requests for expedited processing and grant them whenever a “compelling need” is shown and in other cases as determined by the agency. The term “compelling need” is defined as (1) involving “an imminent threat to the life or physical safety of an individual,” or (2) in the case of a request made by “a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity.” The compelling need standard is “intended to be narrowly applied.” *Al-Fayed v. CIA*, 254 F.3d 300, 310 (D.C. Cir. 2001).

In support of your request for expedited processing, you state that, “Information regarding this vaccine, and in particular the safety and efficacy information regarding this vaccine, are a matter of immediate concern to the American public.” Your client’s request meets the standards of “compelling need,” therefore, I am granting your request for expedited processing.

Exhibit R

Page 2 – Mr. Siri (54464)

We are searching the files of the NIH for records responsive to your request. If any documents responsive to your request are located, they will be reviewed for releasability, and all releasable information will be sent to you. We will do everything possible to comply with your request in a timely manner. Please contact the NIAID FOIA Office at foia@niaid.nih.gov or 301-761-7759 for additional information or to inquire about the status of your request.

Provisions of the FOIA allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the Department of Health and Human Services (HHS) FOIA Regulations as they apply to “other” requesters. As an “other” category requester you will be charged for duplication at 10-cents per page although the first 100 pages are free; 2 hours of search time are free and thereafter search time is charged at the hourly rate (\$23.00, \$46.00 and \$83.00) of the searcher; there is no charge for review time. Because we are uncertain that applicable fees will exceed our minimum charge (\$25.00), we are not addressing your request for a fee waiver at this time. However, if it is determined that there will be fees associated with processing your request, we will contact you at that time.

If you are not satisfied with the processing and handling of this requests, you may contact the NIH FOIA Public Liaison and/or the Office of Government Information Services (OGIS):

NIH FOIA Public Liaison

Stephanie Clipper
Public Affairs Specialist
Office of Communications and Public Liaison
Building 31, Room 5B35
31 Center Drive
Bethesda, MD 20814
301-496-1828 (phone)
301-496-0818 (fax)
nihfoia@mail.nih.gov (email)

OGIS

National Archives and Records Admin.
8601 Adelphi Rd - OGIS
College Park, MD 20740-6001
202-741-5770 (phone)
1-877-684-6448 (toll-free)
202-741-5769 (fax)
ogis@nara.gov (email)

Sincerely,

**Gorka Garcia-
malene -S**

Digitally signed by
Gorka Garcia-malene -S
Date: 2020.06.08
16:48:44 -04'00'

Gorka Garcia-Malene
Freedom of Information Officer, NIH

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Civil Cover Sheet

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the District of Arizona.

The completed cover sheet must be printed directly to PDF and filed as an attachment to the Complaint or Notice of Removal.

Plaintiff(s): Informed Consent Action Network Defendant(s): National Institutes of Health

County of Residence: Outside the State of Arizona

County of Residence: Outside the State of Arizona

County Where Claim For Relief Arose: Maricopa

Plaintiff's Atty(s):

Defendant's Atty(s):

**Aaron Siri (Informed Consent Action Network)
Siri & Glimstad LLP
11201 North Tatum Boulevard, Suite 300
Phoenix, Arizona 85028
602-806-9975**

II. Basis of Jurisdiction: **2. U.S. Government Defendant**

III. Citizenship of Principal Parties (Diversity Cases Only)

Plaintiff:- **N/A**
Defendant:- **N/A**

IV. Origin : **1. Original Proceeding**

V. Nature of Suit: **895 Freedom of Information Act**

VI. Cause of Action: **5 U.S.C. §552(a)(4)(B) and 28 U.S.C. §1331 - Failure to timely respond to a request made pursuant to FOIA**

VII. Requested in Complaint

Class Action: **No**
Dollar Demand:
Jury Demand: **No**

VIII. This case is not related to another case.

Signature: Aaron Siri

Date: 06/29/2020

If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it. Once correct, save this form as a PDF and include it as an attachment to your case opening documents.

Revised: 01/2014