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7 *Attorneys for Plaintiff*  
8 *BioMarin Pharmaceutical Inc.*

9  
10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA

12 BIOMARIN PHARMACEUTICAL INC., a )  
13 Delaware corporation, )

14 Plaintiff, )

15 v. )

16 GERARDO CARABALLO, an individual, )

17 Defendant. )

) Case No.

) **COMPLAINT FOR INJUNCTIVE RELIEF**  
) **AND DAMAGES FOR (1) FEDERAL**  
) **TRADE SECRET MISAPPROPRIATION;**  
) **(2) CALIFORNIA UNIFORM TRADE**  
) **SECRET ACT MISAPPROPRIATION; (3)**  
) **BREACH OF CONTRACT; AND (4)**  
) **VIOLATION OF CAL. BUS. & PROF.**  
) **CODE SECTION 17200**

) **[JURY TRIAL DEMANDED]**  
)  
)  
)

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1 Plaintiff BioMarin Pharmaceutical Inc. (“BioMarin”) alleges as follows:

2 **NATURE OF ACTION**

3 1. This action arises from Defendant Gerardo Caraballo’s (“Defendant” or “Caraballo”)   
4 unlawful download and transfer of over 1,800 files containing BioMarin’s trade secrets and   
5 confidential information to a personal USB device, as—unbeknownst to BioMarin—he prepared to   
6 join one of BioMarin’s competitors. Caraballo carried out his illegal scheme to avoid detection, and   
7 even after BioMarin’s information technology security systems exposed his surreptitious   
8 downloading activity, Caraballo continued to deceive BioMarin and resisted its effort to investigate   
9 the full scope of the harm he had already caused and intended to further inflict. From the limited   
10 investigation BioMarin has been able to conduct thus far, however, it is evident that Caraballo had   
11 plotted and commenced execution of a plan to unfairly compete and cause BioMarin devastating   
12 harm, in aid of his new position at BioMarin’s competitor.

13 2. BioMarin is a leading biotechnology company focused on researching, developing,   
14 manufacturing, and selling a variety of therapies for rare genetic diseases. Since its founding in   
15 1997, BioMarin’s mission has been to find new solutions to address the biggest challenges in rare   
16 disease, motivated by the desire to help improve the lives of patients with unmet medical needs.   
17 BioMarin has developed and introduced seven first or best-in-class therapies for genetic disorders   
18 with limited-to-no treatment options. BioMarin’s manufacturing approach has allowed it to maintain   
19 the highest quality standards, coupled with efficient production and delivery capability necessary to   
20 meet clinical and commercial demands. BioMarin has built one of the first gene therapy   
21 manufacturing facilities of its kind that offers process manufacturing, quality control, and research   
22 and development laboratory space.

23 3. BioMarin’s manufacturing and processing equipment and techniques, and its ability   
24 to validate the accuracy of that equipment and those techniques, plays a critical role in its research,   
25 development and manufacturing of its therapies. BioMarin developed this information through   
26 significant expenditure of time, effort, and economic investment, and the information is immensely   
27 valuable to competitors. As a result, BioMarin takes extensive measures to protect the secrecy of   
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1 this information, including through written confidentiality agreements with employees, such as  
2 Caraballo, and implementation of technological and physical access restrictions.

3 4. Until recently, Caraballo worked for BioMarin as a Senior Automation Validation  
4 QA Engineer, and, in that role, had extensive access to BioMarin's trade secrets and confidential  
5 information related to automation validation processes of its manufacturing and processing  
6 equipment, including but not limited to functional requirement specifications, operating procedures,  
7 automation validation test scripts, equipment listings, and configuration specifications. As part of  
8 his employment with BioMarin, Caraballo signed a written confidentiality agreement whereby he  
9 agreed not to disclose, use, induce, or assist in the use or disclosure of BioMarin's trade secrets and  
10 confidential information except as expressly permitted. Caraballo also agreed that, following  
11 termination of his employment, he would not retain any written material (electronic or hardcopy)  
12 containing any trade secrets or confidential information, and not copy, delete, or alter any  
13 information contained on his BioMarin-issued laptop before returning that laptop to BioMarin.

14 5. Also as part of his employment, Caraballo received, read, and signed certifications of  
15 receipt and understanding regarding BioMarin's U.S. Employee Handbook, Privacy Policy, and  
16 Global Code of Conduct and Business Ethics. The U.S. Employee Handbook states that employees  
17 are prohibited from backing up or storing company data onto any non-company device, including  
18 but not limited to a USB drive, and must use good judgment and adhere to the highest ethical  
19 standards when using or transmitting BioMarin's confidential information. The Global Code of  
20 Conduct and Business Ethics provides that employees may not make unauthorized copies of any  
21 BioMarin information.

22 6. On October 25, 2021, Caraballo gave BioMarin notice that he would be resigning  
23 from BioMarin, effective November 5, 2021, his last day with the company. Caraballo did not  
24 indicate what he intended to do upon his resignation from BioMarin, only vaguely stating that he had  
25 been "offered another position that will enhance [his] personal and professional development."  
26 Caraballo indicated that he would continue with his duties up until his last day on November 5,  
27 2021.

28

1           7.       BioMarin requires departing employees to sign a Cessation of Employment  
2 Certificate that confirms that they have complied and will continue to comply with their respective  
3 confidentiality agreement, and that they will not retain any of BioMarin’s confidential information.  
4 Caraballo signed and returned the Certificate on October 26, 2021, *i.e.* a week-and-a-half before he  
5 would be required to return his company-issued laptop during his November 5, 2021 exit meeting.  
6 By signing the Certificate, Caraballo confirmed in writing that, upon cessation of employment, he  
7 complied with and would continue to comply with the terms of his confidentiality agreement, and  
8 certified that he did not have in his possession, nor had he failed to return, any BioMarin confidential  
9 information or other documents or materials, equipment, or other property belonging to the  
10 BioMarin.

11           8.       As an additional layer of protection for its confidential and trade secret information,  
12 BioMarin’s information technology systems monitor for any unusual downloading activity by its  
13 employees. On November 1, 2021, BioMarin’s IT department was alerted that Caraballo had made a  
14 large download (200+ files) from BioMarin’s Microsoft SharePoint database and transferred the files  
15 to an external USB device. This was prohibited by BioMarin and Caraballo had no legitimate  
16 business purpose to be downloading and transferring these files to an external device. The  
17 SharePoint database is BioMarin’s central repository containing business records/files. It is access-  
18 restricted and password-protected. Upon learning of Caraballo’s improper downloading and  
19 transferring activity, BioMarin immediately began to investigate Caraballo’s activity in the  
20 surrounding timeframe.

21           9.       BioMarin’s investigation uncovered that, in addition to the 200+ files downloaded  
22 and transferred during his final week of employment, Caraballo had transferred 1,600+ BioMarin  
23 files to the same external USB device a week and a half before Caraballo gave his resignation notice.

24           10.      All told, despite Caraballo’s obligations and commitments not to take any BioMarin  
25 information or files—and his assurances to BioMarin that he had not—Caraballo improperly took  
26 over 1,800 company files without any business justification. Subsequent forensic analysis revealed  
27 that those files included BioMarin’s confidential and trade secret information, functional  
28

1 requirement specifications, operating procedures, automation validation test scripts, equipment  
2 listings, and configuration specifications.

3 11. Indeed, the materials Caraballo secretly downloaded contain BioMarin's trade secrets  
4 and confidential information related to automation validation processes of its manufacturing and  
5 processing equipment, including but not limited to functional requirement specifications, operating  
6 procedures, automation validation test scripts, equipment listings, configuration specifications, and  
7 other highly confidential information that Caraballo had access to via his former employment with  
8 BioMarin.

9 12. Upon learning of his unlawful downloading activity, BioMarin immediately  
10 confronted Caraballo and demanded that he return his company-issued laptop and the USB drive  
11 containing the BioMarin files. While BioMarin attempted to mitigate the harm Caraballo had  
12 already caused and ensure its confidential and trade secret information would not be further  
13 compromised, however, Caraballo resisted and continued to try and deceive BioMarin. Indeed,  
14 Caraballo claimed he had only downloaded his personal tax returns, which was belied by both the  
15 volume and content of the materials that he had actually downloaded. Similarly, Caraballo refused  
16 to identify his plans for employment following his departure from BioMarin. As BioMarin pressed  
17 Caraballo to come clean, however—and no doubt under the weight of the evidence that had exposed  
18 his unlawful activity—Caraballo ultimately relented and acknowledged that he was joining Sangamo  
19 Therapeutics, Inc. (“Sangamo”), one of BioMarin's principal gene therapy competitors.

20 13. It is at that point that Caraballo's surreptitious, unlawful downloading activity started  
21 to come into fuller focus. Caraballo had planned to abscond with BioMarin's trade secret and  
22 confidential information to aid his efforts to unfairly compete with BioMarin at Sangamo, where he  
23 would assume a Senior Manager QA Validation position—a role that appears nearly identical to his  
24 role at BioMarin. BioMarin demanded that Caraballo turn over his BioMarin-issued laptop and the  
25 USB device on which he had unlawfully downloaded BioMarin's confidential and trade secret  
26 information. Caraballo reluctantly complied.

27 14. BioMarin's confidential and trade secret information remains at grave risk. Although  
28 BioMarin has not had the opportunity to conduct a full investigation, it is evident that Caraballo had,

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