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9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 ANNIE WEISS,

12 Plaintiff,

13 vs.

14 NANTKWEST, INC., PATRICK SOON-
15 SHIONG, BARRY J. SIMON, JOHN C.
16 THOMAS, JR., FREDERICK W. DRISCOLL,
17 MICHAEL D. BLASZYK, and CHERYL L.
18 COHEN,

19 Defendants.

) Case No. **'21CV280 BEN KSC**

) **COMPLAINT FOR VIOLATIONS OF**
) **THE FEDERAL SECURITIES LAWS**

) **JURY TRIAL DEMANDED**

20
21 Plaintiff Annie Weiss (“Plaintiff”), on behalf of herself and all others similarly situated, upon
22 information and belief, including an examination and inquiry conducted by and through her counsel,
23 except as to those allegations pertaining to Plaintiff, which are alleged upon personal belief, alleges
24 the following for her Complaint:
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NATURE OF THE ACTION

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2 1. This is an action brought by Plaintiff against NantKwest, Inc. (“NantKwest” or the
3 “Company”) and the members of NantKwest’s Board of Directors (the “Board” or the “Individual
4 Defendants”) for their violations of Sections 14(a) and 20(a) of the Securities Exchange Act of 1934
5 (the “Exchange Act”), 15 U.S.C. §§ 78n(a), 78t(a), and U.S. Securities and Exchange Commission
6 (“SEC”) Rule 14a-9, 17 C.F.R. § 240.14a-9, and to enjoin the vote on a proposed transaction, pursuant
7 to which NantKwest will merge with ImmunityBio, Inc. (“ImmunityBio”) through NantKwest’s
8 wholly owned subsidiary Nectarine Merger Sub, Inc. (“Merger Sub”) (the “Proposed Transaction”).
9

10 2. On December 21, 2020, NantKwest and ImmunityBio issued a joint press release
11 announcing that they had entered into an Agreement and Plan of Merger dated December 21, 2020
12 (the “Merger Agreement”) to merge NantKwest with ImmunityBio. Under the terms of the Merger
13 Agreement, the stockholders of ImmunityBio will receive 0.8190 of a share of NantKwest common
14 stock for each share of ImmunityBio common stock they own (the “Merger Consideration”). Upon
15 the closing of the merger, ImmunityBio stockholders are expected to own approximately 72% of the
16 combined company’s stock, while NantKwest stockholders are expected to own approximately 28%
17 of the combined company’s stock.
18

19 3. On February 2, 2021, NantKwest filed a Schedule 14A Definitive Proxy Statement
20 (the “Proxy Statement”) with the SEC. The Proxy Statement, which recommends that NantKwest
21 stockholders vote in favor of the Proposed Transaction, omits or misrepresents material information
22 concerning, among other things: (i) the Company’s and ImmunityBio’s financial projections and the
23 data and inputs underlying the financial valuation analyses that support the fairness opinion provided
24 by one of the special committee of the Board’s (“Special Committee”) financial advisors, Barclays
25 Capital Inc. (“Barclays”); and (ii) the potential conflicts of interest faced by the Special Committee’s
26 advisors, Barclays and Health Advances LLC (“Health Advances”). Defendants authorized the
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1 issuance of the false and misleading Proxy Statement in violation of Sections 14(a) and 20(a) of the
2 Exchange Act.

3 4. In short, unless remedied, NantKwest's public stockholders will be irreparably harmed
4 because the Proxy Statement's material misrepresentations and omissions prevent them from making
5 a sufficiently informed voting decision on the Proposed Transaction. Plaintiff seeks to enjoin the
6 stockholder vote on the Proposed Transaction unless and until such Exchange Act violations are
7 cured.
8

9 **JURISDICTION AND VENUE**

10 5. This Court has jurisdiction over the claims asserted herein for violations of Sections
11 14(a) and 20(a) of the Exchange Act and Rule 14a-9 promulgated thereunder pursuant to Section 27
12 of the Exchange Act, 15 U.S.C. § 78aa, and 28 U.S.C. §1331 (federal question jurisdiction).

13 6. The Court has jurisdiction over defendants because each defendant is either a
14 corporation that conducts business in and maintains operations in this District, or is an individual who
15 has sufficient minimum contacts with this District so as to render the exercise of jurisdiction by this
16 Court permissible under traditional notions of fair play and substantial justice.
17

18 7. Venue is proper in this District under Section 27 of the Exchange Act, 15 U.S.C. §
19 78aa, as well as under 28 U.S.C. § 1391 because: (i) the Company's principal executive offices are
20 located in this District; (ii) one or more of the defendants either resides in or maintains executive
21 offices in this District; and (iii) defendants have received substantial compensation in this District by
22 doing business here and engaging in numerous activities that had an effect in this District.
23

24 **THE PARTIES**

25 8. Plaintiff is, and has been at all times relevant hereto, a continuous stockholder of
26 NantKwest.
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28

1 9. Defendant NantKwest is a Delaware corporation, with its principal executive offices
2 located at 3530 John Hopkins Court, San Diego, California 92121. The Company is a clinical-stage
3 immunotherapy company focused on harnessing the power of the innate immune system to treat
4 cancer and infectious diseases. NantKwest’s common stock trades on the Nasdaq Global Select
5 Market under the ticker symbol “NK.”

6 10. Defendant Patrick Soon-Shiong (“Soon-Shiong”) has served as Executive Chairman
7 of the Board and Chief Executive Officer (“CEO”) of the Company since March 2015 and has been
8 a director of the Company since January 2020. Defendant Soon-Shiong and his affiliates beneficially
9 own approximately 88.9% of the outstanding shares of ImmunityBio common stock.
10

11 11. Defendant Barry J. Simon (“Simon”) has been President and Chief Administrative
12 Officer of the Company since January 2017 and has been a director since 2007. Defendant Simon
13 previously served as President and Chief Operating Officer from March 2015 to December 2016 and
14 as President and CEO from 2007 to March 2015.
15

16 12. Defendant John C. Thomas, Jr. (“Thomas”) has been a director of the Company since
17 April 2014.

18 13. Defendant Frederick W. Driscoll (“Driscoll”) is Lead Independent Director and has
19 been a director of the Company since September 2017.

20 14. Defendant Michael D. Blaszyk (“Blaszyk”) has been a director of the Company since
21 July 2015.
22

23 15. Defendant Cheryl L. Cohen (“Cohen”) has been a director of the Company since June
24 2019.

25 16. Defendants identified in paragraphs 10-15 are referred to herein as the “Board” or the
26 “Individual Defendants.”
27
28

OTHER RELEVANT ENTITIES

1
2 17. ImmunityBio is a late-stage immunotherapy company developing next-generation
3 therapies that drive immunogenic mechanisms for defeating cancer and infectious disease.
4 ImmunityBio’s immunotherapy platform is designed to activate both the innate (natural killer cell and
5 macrophage) and adaptive (T cell) immune systems to create long-term “immunological memory,”
6 an approach designed to eliminate the need for high-dose chemotherapy, improve the outcomes of
7 current CAR T-cell therapies, and extend beyond checkpoint inhibitors. ImmunityBio has established
8 three fundamental platforms to drive long-term immunological memory. These include first-in-class
9 antibody cytokine fusion proteins, synthetic immune modulators, and second-generation vaccine
10 vector platforms. ImmunityBio’s lead cytokine infusion protein, a novel interleukin-15 (“IL-15”)
11 superagonist complex (“Anktiva”), has received Breakthrough Therapy Designation from the U.S.
12 Food and Drug Administration (“FDA”) for BCG-unresponsive CIS non-muscle invasive bladder
13 cancer (“NMIBC”). Other indications currently at registration-stage trials include BCG-unresponsive
14 papillary bladder cancer, first- and second-line lung cancer, triple-negative breast cancer, metastatic
15 pancreatic cancer, recurrent glioblastoma, and soft tissue sarcoma in combination with the company’s
16 synthetic immune modulator (“Aldoxorubicin”). ImmunityBio is also developing therapies,
17 including vaccines, for the prevention and treatment of HIV, influenza, and the coronavirus SARS-
18 CoV-2 with its second-generation human adenovirus (“hAd5”) vaccine platform.
19
20

21 18. Merger Sub is a Delaware corporation and a wholly owned subsidiary of NantKwest.
22

SUBSTANTIVE ALLEGATIONS

23
24 **Background of the Company**

25 19. NantKwest is a clinical-stage immunotherapy company focused on harnessing the
26 power of the innate immune system to treat cancer and infectious diseases. NantKwest is the leading
27 producer of clinical dose forms of off-the-shelf natural killer (“NK”) cell therapies. The activated
28

1 NK cell platform is designed to destroy cancer and virally-infected cells. The safety of these
2 optimized, activated NK cells—as well as their activity against a broad range of cancers—has been
3 tested in phase I clinical trials in Canada and Europe, as well as in multiple phase I and II clinical
4 trials in the United States. By leveraging an integrated and extensive genomics and transcriptomics
5 discovery and development engine, together with a pipeline of multiple, clinical-stage, immuno-
6 oncology programs, NantKwest’s goal is to transform medicine by bringing novel NK cell-based
7 therapies to routine clinical care. NantKwest is a member of the NantWorks ecosystem of companies.

9 **The Proposed Transaction**

10 20. On December 21, 2020, NantKwest and ImmunityBio issued a joint press release
11 announcing the Proposed Transaction. The press release states, in relevant part:

12 CULVER CITY & EL SEGUNDO, Calif., December 21, 2020 — ImmunityBio, a
13 privately-held immunotherapy company, and NantKwest, Inc. (NASDAQ: NK), a
14 clinical-stage, natural killer cell-based therapeutics company, today announced they
15 have entered into an agreement to merge in a stock-for-stock transaction. The
16 combination will create a leading immunotherapy and cell therapy company focused
17 on oncology and infectious disease.

18 Together, ImmunityBio and NantKwest will have a broad, clinical-stage pipeline –
19 including 13 assets in clinical trials and 11 in Phase II to III – as well as a robust early
20 stage pipeline to address other difficult to treat cancers. The combination of
21 NantKwest’s Natural Killer (NK) cell platform and ImmunityBio’s immunotherapy
22 fusion protein, immunomodulator, and adenovirus platforms have already resulted in
23 complete responses in late stage, difficult to treat metastatic cancers. To date complete
24 responses have been noted in patients with second line or greater metastatic pancreatic
25 cancer, triple-negative breast cancer, head and neck cancer, and Merkel Cell
26 Carcinoma. This strong track record of combination immunotherapies across the two
27 companies’ platforms supports the potential of the combined assets to transform the
28 future of immunotherapy beyond checkpoints by synergizing NantKwest’s cell-based
therapies with ImmunityBio’s immunotherapy platforms.

In a separate press release issued today, ImmunityBio announced that ImmunityBio’s
IL-15 fusion protein, Anktiva, with FDA Breakthrough Therapy status for non-muscle
invasive bladder cancer CIS, has achieved primary endpoint with 72% complete
response.

ImmunityBio was founded by Dr. Patrick Soon-Shiong, MD, a physician and scientist
who invented Abraxane for the treatment of metastatic breast cancer, lung cancer and
advanced pancreatic cancer. The companies, including their operations, are aligned

1 given their long-standing collaboration programs with opportunity for advancing
2 clinical development of the late stage Phase II and III trials.

3 Dr. Soon-Shiong said, “We are developing next-generation immunotherapies to defeat
4 cancer and infectious disease. By combining ImmunityBio’s immunotherapy
5 platform, which includes the Anktiva IL-15 superagonist, with NantKwest’s natural
6 killer cell platform, the merged entity will have a powerful and broad product portfolio
7 that can activate both the innate (natural killer cell and macrophage) and adaptive (T
8 cell) immune systems to create long-term immunological memory. What
9 distinguishes the merged entity is the late stage immunotherapy product pipeline that
10 is designed to eliminate the need for high-dose chemotherapy, improve the outcomes
11 of current CAR T cell therapies, and extend beyond checkpoint inhibitors. With 13
12 clinical trials across multiple tumor types at Phase I to III and with the combined talent
13 in research, clinical development and manufacturing, the merged entity is poised to be
14 a leader in the immunotherapy space.”

15 “We are excited to join forces with ImmunityBio, a company and team we have
16 collaborated with for many years across our platforms,” said Rich Adcock, NantKwest
17 Chief Executive Officer. “With the integration of ImmunityBio’s pipeline, cutting-
18 edge R&D capabilities, talented employees and clinical expertise, we expect to
19 accelerate the delivery of new treatments for patients with unmet needs. Together we
20 can unlock the combined potential of our assets, and look forward to building on our
21 continued success as one company.”

22 Michael Blaszyk, an independent director of NantKwest and member of the Special
23 Committee stated, “This transaction is a compelling opportunity to drive value creation
24 for shareholders. Our Special Committee carefully evaluated the ImmunityBio
25 proposal and determined it is in the best interests of shareholders and also benefits
26 other stakeholders, including our employees, partners and patients.”

27 ImmunityBio is a leading late stage immunotherapy company activating both the
28 innate (natural killer cell and macrophage) and adaptive (T cell) immune system to
treat serious unmet needs within oncology and infectious diseases. Founded in 2014
and headquartered in Culver City, ImmunityBio’s platform is designed to overcome
limitations of the current standards of T cell-based immunotherapies, including
checkpoint inhibitors and CAR-T cells. The company has established a robust next
generation immunotherapy clinical pipeline with a strategy toward registrational intent
in various indications, beyond checkpoint therapy treatment alone.

23 **Strategic and Financial Rationale**

24 Key attributes of the combined company will include:

- 25 • **Expansive clinical-stage pipeline and intellectual property portfolio.** 13
26 assets in clinical trials, including 11 in Phase II to III clinical trials, as well as
27 a strong global intellectual property portfolio of issued and pending worldwide
28 patent applications with patent life extending to 2035 and beyond.

- 1 • **Differentiated technology and assets.** Best-in-class combined discovery and
2 development platforms for novel therapies and next-generation early-stage
3 candidates across immunotherapy, neoepitopes and molecules enhancing
4 allogeneic and autologous NK and T-cell therapies.
- 5 • **Significant market opportunity.** Well positioned to combine expertise,
6 platforms and resources to address patients across oncology and infectious
7 disease.
- 8 • **Cutting-edge cell manufacturing expertise and ready-to-scale facilities.**
9 Extensive and seasoned R&D, clinical trial, and regulatory operations and
10 development teams, which together will occupy over 200,000 square feet of
11 manufacturing and R&D facilities.
- 12 • **Improved ability to combine platforms and therapies.** The transaction
13 improves the ability to more seamlessly combine programs and leverage
14 resources and expertise across both companies' platforms, ultimately
15 strengthening the efforts of both companies on behalf of patients to drive better
16 outcomes in the fight against oncology and infectious disease.
- 17 • **Significant potential for strategic and financial synergies.** This opportunity
18 will come from meaningful streamlining of clinical operations, therapeutic
19 discovery and development, and manufacturing.

12 **Transaction Details**

13
14 The transaction is structured as a tax-free 100% stock-for-stock merger, with
15 ImmunityBio to reverse merge with NantKwest. Under the terms of the agreement,
16 ImmunityBio shareholders will receive a fixed exchange ratio of 0.8190 shares of
17 NantKwest for each share of ImmunityBio owned. Upon completion of the
18 transaction, on a fully diluted basis, ImmunityBio shareholders will own
19 approximately 72% of the combined company and NantKwest shareholders will own
20 approximately 28% of the combined company, on a fully diluted basis.

21
22 A Special Committee of the NantKwest Board of Directors, consisting of independent
23 Directors, undertook a thorough review of the transaction and unanimously
24 recommended that the company proceed with the transaction.

25
26 The transaction, which is expected to close in the first half of 2021, is subject to
27 shareholder approval by a majority of unaffiliated shareholders of NantKwest, in
28 addition to other customary closing conditions. There is no filing requirement under
the Hart-Scott-Rodino Antitrust Improvements Act for this transaction.

Following the closing of the transaction, the combined company will assume the
ImmunityBio name and continue to be listed on the NASDAQ exchange. However,
the combined company ticker symbol is expected to be changed to IBRX.

26 **Leadership**

1 Richard Adcock will become the CEO of the combined company, and Dr. Soon-
2 Shiong will serve as Executive Chairman of the Board. The combined company will
be headquartered at ImmunityBio's offices in Culver City, California.

3 **The Proxy Statement Contains Material Misstatements or Omissions**

4 21. The defendants filed a materially incomplete and misleading Proxy Statement with the
5 SEC and disseminated it to NantKwest's stockholders. The Proxy Statement misrepresents or omits
6 material information that is necessary for the Company's stockholders to make an informed decision
7 whether to vote in favor of the Proposed Transaction.

8
9 22. Specifically, as set forth below, the Proxy Statement fails to provide Company
10 stockholders with material information or provides them with materially misleading information
11 concerning: (i) the Company's and ImmunityBio's financial projections and the data and inputs
12 underlying the financial valuation analyses that support the fairness opinion provided by one of the
13 Special Committee's financial advisors, Barclays; and (ii) the potential conflicts of interest faced by
14 the Special Committee's advisors, Barclays and Health Advances.

15
16 ***Material Omissions Concerning NantKwest's and ImmunityBio's Financial Projections and
Barclays' Financial Analyses***

17 23. The Proxy Statement omits material information regarding NantKwest's and
18 ImmunityBio's financial projections.

19
20 24. For example, with respect to the NantKwest Management Projections, NantKwest
21 Consultant Projections, ImmunityBio Management Projections, and ImmunityBio Consultant
22 Projections, the Proxy Statement fails to disclose unlevered free cash flows and the line items
23 underlying the unlevered free cash flows.

24 25. The Proxy Statement also omits material information regarding Barclays' financial
25 analyses.

26
27 26. The Proxy Statement describes Barclays' fairness opinion and the various valuation
28 analyses performed in support of its opinion. However, the description of Barclays' fairness opinion

1 and analyses fails to include key inputs and assumptions underlying these analyses. Without this
2 information, as described below, NantKwest's public stockholders are unable to fully understand
3 these analyses and, thus, are unable to determine what weight, if any, to place on Barclays' fairness
4 opinion in determining whether to vote in favor of the Proposed Transaction.

5 27. With respect to Barclays' *Discounted Cash Flow Analysis – NantKwest*, the Proxy
6 Statement fails to disclose: (i) quantification of the terminal value of NantKwest as of December 31,
7 2044; and (ii) quantification of the individual inputs and the assumptions underlying the range of
8 discount rates of 11.00% to 13.00%.

9
10 28. With respect to Barclays' *Discounted Cash Flow Analysis – ImmunityBio*, the Proxy
11 Statement fails to disclose: (i) quantification of the terminal value of ImmunityBio as of December 31,
12 2044; (ii) quantification of the individual inputs and the assumptions underlying the range of discount
13 rates of 11.00% to 13.00%; and (iii) quantification of the after-tax impact of the Aldoxorubicin
14 regulatory and commercial milestones.

15
16 29. With respect to Barclays' *Relative Value Analysis*, the Proxy Statement fails to
17 disclose: (i) quantification of the tax savings from usage of net operating losses and future losses
18 available to the combined company; and (ii) quantification of the individual inputs and the
19 assumptions underlying the range of discount rates of 11.00% to 13.00%.

20
21 30. With respect to Barclays' *Selected Comparable Company Analysis – NantKwest and*
22 *ImmunityBio*, the Proxy Statement fails to disclose the multiples and financial metrics for each of the
23 comparable companies analyzed.

24
25 31. With respect to Barclays' *Equity Analyst Target Prices Analysis – NantKwest*, the
26 Proxy Statement fails to disclose the individual price targets for NantKwest and the sources thereof.

27
28 32. Without such undisclosed information, NantKwest stockholders cannot evaluate for
themselves whether the financial analyses performed by Barclays were based on reliable inputs and

1 assumptions or whether they were prepared with an eye toward ensuring that a positive fairness
2 opinion could be rendered in connection with the Proposed Transaction. In other words, full
3 disclosure of the omissions identified above is required in order to ensure that stockholders can fully
4 evaluate the extent to which Barclays' opinion and analyses should factor into their decision whether
5 to vote in favor of or against the Proposed Transaction.

6 33. The omission of this material information renders the statements in the "Certain
7 Unaudited Prospective Financial and Operating Information" and "Opinion of the Financial Advisor
8 to the NantKwest Special Committee" sections of the Proxy Statement false and/or materially
9 misleading in contravention of the Exchange Act.

11 ***Material Omissions Concerning the Special Committee's Advisors' Potential Conflicts of Interest***

12 34. The Proxy Statement fails to disclose material information concerning the potential
13 conflicts of interest faced by the Special Committee's advisors, Barclays and Health Advances.

14 35. For example, the Proxy Statement sets forth:

15
16 Barclays may have performed various investment banking services for NantKwest and
17 ImmunityBio in the past, and expects to perform such services in the future, and may
18 have received, and expects to receive, customary fees for such services. Specifically,
19 other than in connection with the merger, Barclays has not performed any investment
20 banking services for NantKwest, ImmunityBio or any other controlled affiliates of
21 Dr. Soon-Shiong in the past two years pursuant to which compensation was received.

22 Proxy Statement at 141. The Proxy Statement fails, however, to disclose the amount of any fees
23 Barclays expects to receive for the various investment banking services it has provided for NantKwest
24 and ImmunityBio or any other controlled affiliates of defendant Soon-Shiong.

25 36. Additionally, the Company engaged Health Advances to assist the special committee
26 in evaluating the product pipelines of both NantKwest and ImmunityBio and the preparation and/or
27 review of financial projections and synergies related to a potential transaction. The Proxy Statement
28 fails, however, to disclose any past services performed by Health Advances for NantKwest and

1 ImmunityBio or any other controlled affiliates of defendant Soon-Shiong and the amount of fees
2 received for such services.

3 37. Full disclosure of investment banker compensation and all potential conflicts is
4 required due to the central role played by investment banks in the evaluation, exploration, selection,
5 and implementation of strategic alternatives.

6 38. The omission of this information renders the statements in the “Background of the
7 Merger” and “Opinion of the Financial Advisor to the NantKwest Special Committee” sections of the
8 Proxy Statement false and/or materially misleading in contravention of the Exchange Act.

9 39. The Individual Defendants were aware of their duty to disclose the above-referenced
10 omitted information and acted negligently (if not deliberately) in failing to include this information
11 in the Proxy Statement. Absent disclosure of the foregoing material information prior to the
12 stockholder vote on the Proposed Transaction, Plaintiff and the other stockholders of NantKwest will
13 be unable to make an informed voting decision in connection with the Proposed Transaction and are
14 thus threatened with irreparable harm warranting the injunctive relief sought herein.
15

16
17 **CLAIMS FOR RELIEF**

18 **COUNT I**

19 **Claims Against All Defendants for Violations of Section 14(a) of the**
20 **Exchange Act and Rule 14a-9 Promulgated Thereunder**

21 40. Plaintiff repeats all previous allegations as if set forth in full.

22 41. During the relevant period, defendants disseminated the false and misleading Proxy
23 Statement specified above, which failed to disclose material facts necessary to make the statements,
24 in light of the circumstances under which they were made, not misleading in violation of Section
25 14(a) of the Exchange Act and SEC Rule 14a-9 promulgated thereunder.

26 42. By virtue of their positions within the Company, the defendants were aware of this
27 information and of their duty to disclose this information in the Proxy Statement. The Proxy
28

1 Statement was prepared, reviewed, and/or disseminated by the defendants. It misrepresented and/or
2 omitted material facts, including material information about the Company's and ImmunityBio's
3 financial projections, the data and inputs underlying the financial valuation analyses that support the
4 fairness opinion provided by Barclays, and Barclays' and Advance Health's potential conflicts of
5 interest. The defendants were at least negligent in filing the Proxy Statement with these materially
6 false and misleading statements.

7
8 43. The omissions and false and misleading statements in the Proxy Statement are material
9 in that a reasonable stockholder would consider them important in deciding how to vote on the
10 Proposed Transaction.

11 44. By reason of the foregoing, the defendants have violated Section 14(a) of the Exchange
12 Act and SEC Rule 14a-9(a) promulgated thereunder.

13 45. Because of the false and misleading statements in the Proxy Statement, Plaintiff is
14 threatened with irreparable harm, rendering money damages inadequate. Therefore, injunctive relief
15 is appropriate to ensure defendants' misconduct is corrected.

16
17 **COUNT II**

18 **Claims Against the Individual Defendants for**
19 **Violations of Section 20(a) of the Exchange Act**

20 46. Plaintiff repeats all previous allegations as if set forth in full.

21 47. The Individual Defendants acted as controlling persons of NantKwest within the
22 meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their positions as
23 officers and/or directors of NantKwest, and participation in and/or awareness of the Company's
24 operations and/or intimate knowledge of the false statements contained in the Proxy Statement filed
25 with the SEC, they had the power to influence and control and did influence and control, directly or
26 indirectly, the decision-making of the Company, including the content and dissemination of the
27 various statements which Plaintiff contends are false and misleading.
28

1 injunctive relief, in her favor on behalf of NantKwest, and against defendants, as follows:

- 2 A. Preliminarily and permanently enjoining defendants and all persons acting in concert
3 with them from proceeding with, consummating, or closing the Proposed Transaction
4 and any vote on the Proposed Transaction, unless and until defendants disclose and
5 disseminate the material information identified above to NantKwest stockholders;
- 6 B. In the event defendants consummate the Proposed Transaction, rescinding it and
7 setting it aside or awarding rescissory damages to Plaintiff;
- 8 C. Declaring that defendants violated Sections 14(a) and/or 20(a) of the Exchange Act,
9 as well as SEC Rule 14a-9 promulgated thereunder;
- 10 D. Awarding Plaintiff the costs of this action, including reasonable allowance for
11 Plaintiff's attorneys' and experts' fees; and
- 12 E. Granting such other and further relief as this Court may deem just and proper.

13
14 **JURY DEMAND**

15 Plaintiff demands a trial by jury on all claims and issues so triable.

16 Dated: February 16, 2021

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