

EXHIBIT 34

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

COMMONWEALTH OF
MASSACHUSETTS, ATTORNEY
GENERAL DANA NESSEL ON BEHALF
OF THE PEOPLE OF THE STATE OF
MICHIGAN, STATE OF ILLINOIS,
STATE OF ARIZONA, STATE OF
CALIFORNIA, STATE OF
CONNECTICUT, STATE OF COLORADO,
STATE OF DELAWARE, STATE OF
HAWAI'I, STATE OF MAINE, STATE OF
MARYLAND, STATE OF MINNESOTA,
STATE OF NEW JERSEY, STATE OF
NEW YORK, STATE OF NEVADA,
STATE OF NEW MEXICO, STATE OF
NORTH CAROLINA, STATE OF
OREGON, STATE OF RHODE ISLAND,
STATE OF VERMONT, STATE OF
WASHINGTON, and STATE OF
WISCONSIN,

Plaintiffs,

v.

NATIONAL INSTITUTES OF HEALTH;
MATTHEW MEMOLI, M.D., M.S., in his
official capacity as Acting Director of the
National Institutes of Health; U.S.
DEPARTMENT OF HEALTH AND
HUMAN SERVICES; and DOROTHY
FINK, in her official capacity as Acting
Secretary of the U.S. Department of Health
and Human Services,

Defendants.

Case No. _____

DECLARATION OF DR. GREG HIRTH

I, Greg Hirth, declare as follows:

1. I am the Vice President for Research at Brown University (“Brown”) in Providence, Rhode Island. I have held that position since February 4, 2025, after serving as interim Vice President for Research starting in September 2024. I am also a Professor of Earth, Environmental, and Planetary Science, and a federally funded researcher. I have been on the faculty at Brown University since 2007.

2. As Vice President for Research, I have personal knowledge of the contents of this declaration, or have knowledge of the matters based on my review of information and records gathered by Brown University personnel, and could testify thereto.

3. Brown is a major research institution that receives significant funding from the Department of Health and Human Services (“HHS”), including from the National Institutes of Health (“NIH”). This funding supports cutting-edge, multi-year research projects in furtherance of public health and emerging areas of science and technology.

4. Specifically, as the university with the only schools of public health and medicine in Rhode Island, Brown conducts critical research directed at major health challenges, including cancer, aging, dementia, heart disease, immune disorders, mental health disorders, and childhood illnesses. Clinical trials conducted at or through Brown, or involving Brown faculty, bring life-saving medicines to those who are battling cancer, heart disease, opioid addiction, and mental health conditions, as well as vulnerable patients who are newborn, children, or pregnant.

5. Examples of critical, NIH-funded research projects being conducted by Brown include:

- a. Research funded by \$71 million from NIH over six years (July 2019 through June 2025) to accelerate the science of dementia care through embedded pragmatic clinical trials, which impacts millions of Americans and their care partners;
- b. Research funded by \$660,000 from the National Institute of Diabetes and Digestive and Kidney Disease for the first year of a 2.5-year project to study methods to improve nutrition and healthy eating habits of preschool-aged children;
- c. Research funded by what is anticipated to be \$6.6 million over approximately 3.5 years (August 2024 through May 2029) from the National Heart, Lung and Blood Institute to study the early identification and prevention of coronary heart disease.
- d. Research funded by a total of \$133 million from NIH prime awards and subawards to study the many facets and impacts of Alzheimer's disease, including the pathophysiology of Alzheimer's disease and how to improve treatment for patients with Alzheimer's disease.

6. In addition to advancing scientific and medical innovation in the national interest, Brown's research also supports local and state communities. As a vital anchor institution and top 10 employer in Rhode Island, Brown plays a major role in the economic well-being of the state and its residents. Brown employs healthcare professionals and skilled researchers in its own hospitals, research institutions, and schools, and it works with two other major Rhode Island hospital systems—Lifespan Corporation and Care New England—to conduct research in the state. Brown has already made, and intends to continue making, significant financial, intellectual,

contractual, and personnel investments in the Brown Innovation and Research Collaborative for Health (“BIRCH”), a research collaboration between Brown and its affiliate hospitals.

7. Brown receives federal research funding in the form of sponsored grants and contracts, which normally provide for the recovery of certain indirect costs at contractually negotiated rates. Overall, in the 2024 fiscal year, Brown’s federally sponsored grants and contracts totaled approximately \$253 million, or 19% of Brown’s operating revenues. Of that \$253 million, approximately \$69 million was in the form of indirect costs. In the current 2025 fiscal year, Brown’s operating budget projects approximately \$300 million in sponsored research, which represents 19% of the University’s net revenue and includes approximately \$73 million in indirect costs.

8. In the 2024 fiscal year, Brown recovered approximately \$37 million in Facilities & Administrative (“F&A”) costs from HHS for Direct Awards. In the 2025 fiscal year, to date, F&A costs amount to approximately \$22 million fiscal year to date. In addition, for subawards where the prime awardee is federally sponsored, including by NIH, actual F&A costs for the 2024 fiscal year was approximately \$9 million.

9. Indirect costs support critical infrastructure throughout individual Schools and the University’s central administration that are necessary to provide support services to conduct research—such as research capital investments, information technology supporting research computing, facilities operations and maintenance, finance and human resources, as well as other aspects of general administration.

10. On February 7, 2025, NIH issued guidance directing the lowering of indirect cost rates to a universal 15% rate, applying not only to new grants but also to existing grants. This

reduction to the indirect cost rate, which is set to become effective on February 10, 2025, will have devastating effects on Brown's ability to conduct research, both short and long term.

11. Reducing the overhead rate for sponsored grants and contracts to 15% will disrupt Brown's research operations, impact operating budgets, personnel, and core infrastructure, all of which depend upon the current F&A cost recovery rate. Using FY24 financial data, had the indirect cost rate of Brown's sponsored grants and contracts been reduced to 15%, the University would have experienced a loss of approximately \$27 million. For year-to-date FY25 research expenditures, the University would have experienced a loss of approximately \$16 million (representing actual costs incurred from July 1, 2024 to February 8, 2025).

12. While budgets related to research are submitted approximately six months in advance of Brown's next fiscal year, grant awards are considered a major component of the University's multi-year financial plan, so any reduction in the F&A rate has a significant impact on Brown's multi-year planning and long-term strategic decision-making.

13. Even more immediately, a reduction in the F&A rate to 15% would require Brown to move very quickly to adjust its operations in order to absorb the loss of revenue. That could include cutting over 200 jobs for personnel that support our research enterprises and facilities, such as administrators, research coordinators, lab managers, animal care staff, custodial staff, security officers, plumbers, electricians, food service employees, clinical coordinators, and research nurses. For example, the University recently broke ground on a new \$400 million research facility, which may not be feasible with a 15% overhead rate moving forward. This facility will provide labs and workspace for research in aging, immunity, brain science, cancer and biomedical engineering, among other fields. As the largest academic laboratory building in Rhode Island, it is expected to help anchor a biomedical ecosystem where innovations can move seamlessly from the laboratory

to patient care. In addition, if Brown were to pause or abandon that effort, it would eliminate many union construction jobs; impact purchases of building materials and laboratory equipment that have already been made; and prevent Brown from hiring new faculty or staff that would have worked in the new facility.

14. It would further threaten Brown's ability to retain the next generation of our healthcare workforce, such as doctors, scientists, and nurses. Almost all of the School of Public Health's research is supported by NIH grants, so a dramatic reduction in funding would affect everything the School does. That includes its ability to recruit faculty; provide pilot funding to catalyze research projects; support faculty and research staff in between grants; and provide cost-sharing support for large, complex projects that exceed grant budgets.

15. There is no simpler way to put it: At a 15% indirect cost rate, many of Brown's current research projects and clinical trials will be forced to cease abruptly. Conducting research requires laboratory facilities, data processing and research computing equipment, privacy and ethical protections for human subjects, and qualified support staff who can ensure that projects are conducted safely, within budget, and in compliance with all relevant regulations. Although indirect costs do not cover the full costs of these activities, they are critical to Brown's ability to fund the research enterprise. Even a temporary interruption of work would threaten clinical trials that supply lifesaving medicine and risk derailing years of careful progress and efforts directed towards major health challenges.

16. The effects of stopping our research would extend beyond Brown, as the reduced utilization of research supplies, equipment, and services would immediately affect major suppliers, such as ThermoFisher, VWR, and Fisher Scientific, that produce lab equipment and other supplies, and have serious ramifications for the entire supply chain that supports the research enterprise.

17. Even a temporary reduction in the indirect cost rate would have cascading effects on Brown's research projects and clinical trials. For example, clinical trials must generally be continuous to be effective, due to concerns for both patient care and trial validity. Such trials take years to set up, create, and perform. If these trials are forced to undergo a significant pause, they might be difficult, if not impossible, to restart, where the lack of continuity compromises the scientific results.

18. Forced closure of clinical trials will lead to an accompanying loss of accumulated research and knowledge, as skilled researchers will opt to leave Brown, and potentially the United States, in pursuit of viable work. This will inevitably lead to lost opportunities to develop U.S. intellectual property and U.S. startup companies. We also anticipate that existing challenges with training and retaining physicians, nurses, and other healthcare professionals will worsen, with direct impacts on patient care. For example, a reduction in funding may result in cuts to the training programs for the MD program at the medical school.

19. A reduction of the indirect cost rate to 15% would be swiftly felt in the local economy as well. The loss of jobs at Brown's affiliated hospitals and schools—which is estimated to number in the hundreds—not to mention loss of jobs in the private sector that support this work, would have an immediate negative impact on the local economy in Providence and across the state of Rhode Island. These losses would eventually spill over into other domains, such as restaurants, retail, and the service industry.

20. The cessation of major capital efforts, such as building new research facilities and labs, will have ripple effects across the economy, including in industries like construction.

21. Brown's efforts to streamline research in Rhode Island through BIRCH would also be negatively impacted, stymying opportunities for collaboration, patient care improvement, and healthcare and life sciences advancements throughout the state.

22. More broadly, the ecosystem of American medical, health, and scientific innovation depends upon university research, which in turn, feeds into the private biotechnology and pharmaceutical industries. This ecosystem would be significantly harmed by disruptions to federally sponsored, university-conducted research, with immense consequences for our nation's competitiveness, economy, and ability to respond to health crises.

23. Importantly, if NIH's indirect cost rate is reduced to 15%, Brown cannot simply make up for the resulting gap in funding through alternative means. Brown's full cost of research is already significantly more than what is covered by sponsored direct costs and indirect cost recovery. In the 2022 fiscal year, for example, Brown's full cost of research was estimated at \$315 million, which was \$66 million more than sponsored direct costs and indirect cost recovery. Brown made approximately \$37 million in additional investments, including through research incentive programs, cost-sharing, and other programs. And Brown took on \$28 million in "unrecovered" indirect costs. Because Brown's federal awards are capped at 26% for administrative costs, all Brown's administrative costs above 26% go unrecovered and are paid for by the University.

24. Any further increases in the gap between Brown's current cost of research and federally sponsored funding cannot be recouped from other revenue sources. Most notably, Brown's endowment, which provides an essential source of support for the University's financial aid, faculty salaries, and academic and co-curricular programs, consists of over 3,800 unique funds

that are legal contracts given as charitable gifts by alumni, parents, students, and friends of the University.

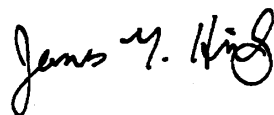
25. The purpose of Brown's endowment is to support the mission of Brown in perpetuity. It is managed with a dual mandate to balance the competing demands of current operations and preserve purchasing power to support future operations.

26. Brown's annual endowment payout, or the amount distributed from the endowment to support each fund's designated purpose, is between 4.5% and 5.5% of the endowment value's 12-quarter trailing average, as approved by the Corporation of Brown University, the institution's highest governing body. Because all endowments are legally subject to the Uniform Prudent Management of Institutional Funds ACT (UPMIFA), the University's ability to increase this annual payout beyond the Corporation-approved range is limited. Moreover, the unique funds that make up Brown's endowment are charitable gifts by alumni, parents, students, and friends, and restricted by law and purpose for their designated use.

27. Therefore, if Brown's indirect cost rate is reduced to 15%, Brown will have no feasible opportunity to avoid the consequences outlined in paragraphs 11–23. Implementation of the Guidance will significantly and immediately compromise scientific advancement in numerous areas critical to the public interest, particularly the economy, human health, and science and technology.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 9, 2025, at Providence, Rhode Island.



Greg Hirth