

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

ILLUMINA, INC, and GRAIL, INC.,

Defendants.

Case No. 3:21-cv-00800-CAB-BGS

**CASE MANAGEMENT AND
SCHEDULING ORDER**

Complaint Filed: March 30, 2021

Judge: Hon. Cathy Ann Bencivengo
Magistrate: Hon. Bernard G. Skomal

Trial Date: Not Set

1 It is hereby ordered as follows:

2 **A. TEMPORARY RESTRAINING ORDER.** Defendants consented to
3 the entry of a Temporary Restraining Order, which the District Court for the
4 District of Columbia entered on March 31, 2021. Under that Temporary
5 Restraining Order, the Defendants have agreed not to close their transaction until
6 the earlier of 12:01 AM Eastern Time on September 20, 2021 or after 11:59 PM
7 Eastern Time on the second (2nd) business day after this Court rules on the
8 Plaintiff's motion for preliminary injunction.

9 **B. ANSWER.** Defendants answered Plaintiff's Complaint on April 5,
10 2021.

11 **C. DISCOVERY.**

12 1. Fact Discovery. Fact discovery commenced on April 1, 2021
13 and shall be completed by **June 4, 2021**. To the extent a third-party deposition is
14 properly noticed in accordance with this Order and the third party's schedule cannot
15 accommodate a deposition before the end of fact discovery, a later deposition may
16 occur with the agreement of both sides. No party may unreasonably withhold
17 agreement. All discovery in this case, including discovery initiated prior to the
18 entry of the CMSO, shall be subject to the CMSO as entered by any Court.

19 2. Initial Disclosures. The parties agree to forego the requirement
20 to exchange initial disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1).

21 3. Pre-Trial Discovery Conference. This Order relieves the parties
22 of their duty under Federal Rule of Civil Procedure 26(f) to confer about scheduling
23 and a discovery plan.

24 4. Third-Party Discovery. No party issuing a third-party subpoena
25 for the production of documents or electronically stored information shall request a
26 return date sooner than seven (7) calendar days after service. Each party shall
27 produce all materials received pursuant to a third-party subpoena or other formal or
28 informal request, including any declarations or affidavits obtained from a third

1 party, to the other party in the format in which those materials were received within
2 two (2) business days of receiving those materials. In the event a non-party
3 produces documents or electronic information that are non-Bates-stamped—in
4 addition to producing the materials in the format in which they were received
5 within two (2) business days of receiving them—the party receiving the documents
6 shall promptly Bates-stamp the documents or electronic information and produce
7 them in a reasonable timeframe. The parties shall serve document subpoenas to
8 third parties by **May 7, 2021**.

9 5. Limitations on Party and Third-Party Declarations or Affidavits.

10 No party may submit as evidence a declaration or affidavit from a party or third-
11 party witness if such declaration or affidavit was executed or served less than one
12 week prior to his or her agreed-to deposition date. In any event, no party or third-
13 party declaration or affidavit may be submitted as evidence if it was executed or
14 served less than fourteen (14) calendar days before the close of fact discovery
15 unless it is a supplemental third-party declaration or affidavit related to a previously
16 given third-party declaration or affidavit, in which case the parties agree to not
17 oppose any efforts to depose, or re-depose, such a declarant or affiant irrespective
18 of any other provisions of this order.

19 6. Document Requests and Production. There shall be no limit on

20 the number of requests for production of documents that the parties may serve. The
21 parties shall serve any objections to requests for the production of documents no
22 later than ten (10) calendar days after the date of service of the document requests
23 to which they assert objections. Within two (2) business days of service of any
24 such objections, the parties shall meet and confer in a good faith attempt to resolve
25 the objections. Responsive productions (subject to any objections or custodian
26 issues that have not been resolved) must be made on a rolling basis and must begin
27 as soon as reasonably practicable after the date of service. All productions must be
28 completed within 30 calendar days of the document request. In response to any

1 document requests, the parties need not produce to each other in discovery in this
2 case any documents previously produced by Defendants to the FTC in the course of
3 the investigation of the acquisition of GRAIL by Illumina, FTC File No. 201-0144.

4 Document Productions shall be sent to the attention of:

5 To the FTC: William Cooke
6 Sadie Goering
7 Matthew Joseph
8 Stephen Mohr
9 Susan Musser
10 Sarah Wohl
11 Nicholas Widnell
12 David Gonen
13 Lauren Gaskin
14 Dylan Naegele
15 Eric Edmondson
16 Hana Verwilt

17 For Illumina: Sharonmoyee Goswami
18 Jesse Weiss
19 Michael Zaken
20 Illumina Trial Team (list serv)
21 Cravath, Swaine & Moore LLP
22 825 Eighth Avenue
23 New York, NY 10019

24 For GRAIL: Marguerite Sullivan
25 Anna Rathbun
26 Latham Antitrust Team (list serv)
27 Latham & Watkins LLP
28 555 Eleventh Street, NW
Suite 1000
Washington, D.C. 20004

7. Interrogatories. The parties shall serve no more than twenty-five (25) interrogatories per side. The parties may serve up to five (5) contention interrogatories per side. The parties shall serve objections and responses to interrogatories no later than ten (10) calendar days after the date of service. Within two (2) business days of any objections, the parties must meet and confer to attempt

1 to resolve the objections. The parties must make good-faith efforts to provide
2 complete answers to interrogatories no later than twenty (20) calendar days after
3 service of the interrogatories.

4 8. Deadline to Issue Written Discovery to Parties. The parties shall
5 serve document requests and interrogatories to parties by **April 28, 2021**.

6 9. Expert Reports. Plaintiff shall serve its expert report(s) on **June**
7 **8, 2021**. Defendants shall serve their expert report(s) on **June 29, 2021**. Plaintiff
8 shall serve its rebuttal expert report(s) on **July 9, 2021**.

9 10. Expert Materials Not Subject to Discovery. Expert disclosures,
10 including each side's expert report(s), shall comply with the requirements of
11 Federal Rule of Civil Procedure 26(a)(2), except as modified herein:

12 a) Neither side must preserve or disclose, including in expert
13 deposition testimony, the following documents or materials:

14 i. any form of communication or work product shared
15 between any of the parties' counsel and their expert(s) or consultants, or between
16 any of the experts themselves;

17 ii. any form of communication or work product shared
18 between an expert and persons assisting the expert;

19 iii. expert's notes, unless they constitute the only
20 record of a fact or an assumption relied upon by the expert in formulating an
21 opinion in this case;

22 iv. drafts of expert reports, analyses, or other work
23 product; or

24 v. data formulations, data runs, data analyses, or any
25 database-related operations not relied upon by the expert in the opinions contained
26 in his or her final report, except as set forth in 13(b).

27 b) The parties agree that they will disclose the following
28 materials with all expert reports:

- 1 i. a list by Bates number of all documents relied upon
- 2 by the testifying expert(s);
- 3 ii. copies of any materials relied upon by the expert
- 4 not previously produced that are not readily available publicly; and
- 5 iii. for any calculations appearing in the report, all data
- 6 and programs underlying the calculation, including any processed data files relied
- 7 upon by the expert in forming his or her opinion and all programs and codes
- 8 necessary to recreate the calculation from the initial (“raw”) data files.

9 11. Exchange of Lists of Witnesses to Appear at Hearing.

10 a) *Preliminary Witness Lists*: The parties shall exchange

11 preliminary witness lists no later than 11:59 PM Eastern Time two business days

12 after the CMSO is entered. Defendants shall jointly submit one list. Preliminary

13 witness lists shall include for each witness (including both fact and expert

14 witnesses): (a) the witness’s name and employer; (b) the name, address, telephone

15 number, and email address of the witness’s counsel (or, if not represented by

16 counsel, the witness’s address, telephone number, and email address); (c) an

17 indication of whether the witness will offer expert testimony; and (d) a summary of

18 the general topics of each witness’s anticipated testimony. The number of fact

19 witnesses who may be included on any side’s preliminary witness list shall not

20 exceed twenty five (25). The preliminary witness lists shall include only witnesses

21 that a side believes in good faith it will present at the evidentiary hearing live

22 (including remotely if necessary to satisfy COVID-19 protocols). Defendants

23 reserve all rights to object to Plaintiff’s use, in its proposed findings of fact or

24 conclusions of law, of deposition designation testimony (including investigational

25 hearing testimony) of witnesses who were not disclosed on Plaintiff’s preliminary

26 or final witness lists. Plaintiff similarly reserves all rights to admit investigational

27 hearing transcripts and deposition designations regardless of whether those

28 witnesses were included on the Plaintiff’s preliminary, supplemental, or final

1 witness lists.

2 b) *Supplemental Witness Lists:* Each party shall supplement
3 their witness list to include all expert witnesses that will be or may be submitting an
4 expert report and/or testifying at trial. With this supplemental witness list, each
5 side shall provide a summary of the general topics of each witness’s anticipated
6 testimony on or before 11:59 PM Eastern Time on **May 14, 2021**.

7 c) *Final Witness Lists:* Final party and third-party witness
8 lists shall be exchanged on or before 11:59 PM Eastern Time on **July 19, 2021**.
9 Only a witness who appears on either party’s preliminary witness list, supplemental
10 witness list, or were otherwise deposed during fact discovery may be included on a
11 party’s final witness list. Final witness lists shall include for each witness
12 (including both fact and expert witnesses): (a) an indication of whether the witness
13 will offer expert testimony; and (b) a summary of the general topics of each
14 witness’s anticipated testimony. No witness shall be permitted at trial unless the
15 opposing side had an opportunity to depose the witness before trial. Defendants
16 reserve all rights to object to Plaintiff’s use, in its proposed findings of fact or
17 conclusions of law, of deposition designation testimony (including investigational
18 hearing testimony) of witnesses who were not disclosed on Plaintiff’s preliminary
19 or final witness lists. Defendants’ position is that final witness lists shall also
20 include an indication of whether the witness will testify live (including remotely if
21 necessary to satisfy COVID-19 protocols) or through reading or playing of a
22 deposition at the preliminary injunction evidentiary hearing. Plaintiff similarly
23 reserves all rights to admit investigational hearing transcripts and deposition
24 designations regardless of whether those witnesses were included on the Plaintiff’s
25 preliminary, supplemental, or final witness lists and to rely on those transcripts in
26 the Findings of Fact and Conclusions of Law.

27
28

1 12. Depositions.

2 a) *Number of Fact Depositions:*

3 i. Each side is entitled to depose any individual who
4 is listed on either side’s preliminary, supplemental or final witness lists. In
5 addition, each side is entitled to depose (1) any individual who signed a declaration
6 or letter of support or any third party that is developing or commercializing
7 oncology tests and has signed with Illumina, since September 21, 2020, a (i) supply
8 agreement, amended supply agreement, letter of intent, or open offer containing
9 terms relating to the proposed transaction, or (ii) “standard contract for U.S.
10 oncology customers” on Illumina’s website; and (2) any third-party witness who
11 appeared for an investigational hearing taken in the investigation conducted by the
12 FTC. Each witness may only be deposed once in this litigation in their individual
13 capacity unless that witness or third party signs a (1) new declaration or letter of
14 support, or (2) supply agreement, amended supply agreement, letter of intent, or
15 open offer containing terms relating to the proposed transaction, or (3) “standard
16 contract for U.S. oncology customers” on Illumina’s website, after they were
17 deposed in this litigation. In that case, the witness may be re-deposed in a
18 deposition of limited duration for the limited purpose of inquiry into that modified
19 agreement or declaration, notwithstanding any other provisions in the CMSO.

20 ii. In addition to those individuals listed under
21 (C.12(a)(i)), each side may take a maximum of fifteen (15) fact depositions of party
22 and third-party witnesses. Plaintiffs may take the deposition of any party witness
23 listed on either side’s preliminary witness list as well as no more than five (5)
24 additional depositions of party witnesses.

25 iii. A Rule 30(b)(6) notice counts as no more than one
26 (1) deposition, in the event a party or third party designates multiple individuals in
27 response to a notice. Additional depositions of fact witnesses shall be permitted
28 only by agreement of the parties or by leave of the Court for good cause shown.

1 The parties shall consult with each other prior to confirming any deposition to
2 coordinate the time and place of the deposition. The parties shall use reasonable
3 efforts to reduce the burden on witnesses noticed for depositions and to
4 accommodate the witness's schedule.

5 b) *Allocation of time:* All depositions, including depositions
6 of fact (including 30(b)(6) witnesses) and expert witnesses, shall last no more than
7 seven (7) hours on the record. For the avoidance of doubt, a single 30(b)(6) notice
8 entitles the serving side a maximum of seven (7) hours of testimony on the record
9 on the topics in the notice, regardless of whether multiple witnesses are designated
10 to respond to those topics. If both Plaintiff and Defendants notice any third-party
11 deposition, they shall allocate the time evenly between them. If both Plaintiff and
12 Defendants notice any third-party fact deposition, the deposition shall count against
13 each side's respective deposition totals. Unused time in any side's allocation of
14 deposition time shall not transfer to the other party. The parties anticipate reaching
15 a separate protocol governing remote depositions. For party witnesses or third-
16 party witnesses retained by any party (*e.g.*, as a consultant, agent, contractor, or
17 representative) in connection with the proposed transaction, or any former
18 employees of any party, the other side will have the opportunity to use up to seven
19 (7) hours for the deposition, consistent with the restrictions on 30(b)(6) depositions
20 described in this section.

21 c) *Notice:* The parties may not serve a deposition notice
22 with fewer than seven (7) calendar days' notice. The parties shall consult with each
23 other prior to confirming any deposition to coordinate the time and place of the
24 deposition. The parties shall use reasonable efforts to reduce the burden on
25 witnesses noticed for depositions and to accommodate the witness's schedule. If a
26 party serves a non-party with a subpoena for the production of documents or
27 electronically stored information and a subpoena commanding attendance at a
28 deposition, the deposition date must be at least seven (7) calendar days after the

1 original return date for the document subpoena. No notice for a deposition of a fact
2 witness shall issue after May 7, 2021, except that deposition notices of witnesses
3 who sign, after May 7, 2021, (1) a declaration or letter of support, (2) a new supply
4 agreement, amended supply agreement, letter of intent, or open offer containing
5 terms relating to the proposed transaction, or (3) a “standard contract for U.S.
6 oncology customers” on Illumina’s website, may be served anytime within five (5)
7 calendar days of the declaration, letter of support, supply agreement, amendment,
8 letter of intent or contract being provided to the opposing party. The parties agree
9 to make good-faith efforts to schedule all third-party depositions by the close of fact
10 discovery. If a third-party deposition is properly noticed pursuant to the above but
11 the third party’s schedule cannot accommodate a deposition before the end of fact
12 discovery, a later deposition may occur at the agreement of both sides. No party
13 may unreasonably withhold agreement.

14 13. Expert Depositions. A single seven (7) hour (on the record)
15 deposition of each expert shall be allowed. Expert depositions must be conducted
16 between July 12 and July 16, 2021.

17 14. Discovery Uses. All discovery taken in the above-captioned
18 litigation can be used in connection with the Part 3 administrative proceeding (FTC
19 Docket No. 9401). Only discovery obtained by a party in the Part 3 administrative
20 proceeding before the close of fact discovery in this proceeding may be used as part
21 of this litigation, except by agreement of the parties or by leave of the Court for
22 good cause shown.

23 **D. MOTIONS AND BRIEFING SCHEDULE.**

24 15. Plaintiff will file its memorandum in support of its motion for a
25 preliminary injunction by June 18, 2021. This brief shall not exceed forty-five (45)
26 pages.

27 16. Defendants will file their opposition to Plaintiff’s motion for a
28 preliminary injunction by July 12, 2021. This brief shall not exceed forty-five (45)

1 pages.

2 17. Plaintiff will file its reply memorandum in further support of its
3 motion for a preliminary injunction by **July 20, 2021**. This brief shall not exceed
4 twenty-five (25) pages.

5 18. Any motions *in limine*, including any *Daubert* motions, shall be
6 filed by **July 21, 2021**. Responses to motions *in limine* shall be filed by **July 23,**
7 **2021**.

8 19. The parties' proposed findings of fact and conclusions of law
9 shall be filed within ten (10) calendar days after the close of the evidentiary
10 hearing.

11 **E. PRELIMINARY INJUNCTION EVIDENTIARY HEARING.**

12 20. The evidentiary hearing on Plaintiff's motion for a preliminary
13 injunction will begin on **August 9, 2021**. Given disagreement between the Plaintiff
14 and Defendants regarding the scope of evidence to be admitted in this preliminary
15 injunction proceeding, the parties will meet and confer after the close of fact
16 discovery and will make a joint proposal to the Court on **June 21, 2021** regarding
17 (1) whether all witnesses for whom either party will move to admit deposition
18 transcripts or investigational hearing transcripts need to be included on the
19 preliminary, supplemental and/or the final witness list; (2) the number of witnesses
20 that shall be included on the final witness list; and (3) whether deposition or
21 investigational hearing testimony can be admitted for someone on the final witness
22 list if that person testifies live at the preliminary injunction hearing; and (4) how
23 much time each side will have to present its case, including opening statements and
24 closing statements. Examination time will count against the side conducting the
25 examination of the witness. Plaintiff may reserve a portion of its time for rebuttal.

26 **F. OTHER MATTERS.**

27 21. Service. Service of any documents not filed via ECF, including
28 discovery requests, notice of Rule 45 subpoenas for testimony or documents, expert

1 disclosure, and delivery of all correspondence, whether under seal or otherwise,
2 shall be served by electronic mail to the following individuals designated by each
3 party:

4 22. For Plaintiff:

5 To the FTC: William Cooke
6 Sadie Goering
7 Matthew Joseph
8 Stephen Mohr
9 Susan Musser
10 Sarah Wohl
11 Nicholas Widnell
12 Hana Verwilt

13 For Defendants:

14 For Illumina: Sharonmoyee Goswami
15 Jesse Weiss
16 Michael Zaken
17 Illumina Trial Team (list serv)
18 Cravath, Swaine & Moore LLP
19 825 Eighth Avenue
20 New York, NY 10019

21 For GRAIL: Marguerite Sullivan
22 Anna Rathbun
23 Latham Antitrust Team (list serv)
24 Latham & Watkins LLP
25 555 Eleventh Street, NW
26 Suite 1000
27 Washington, D.C. 20004

28 In the event that any documents are too voluminous for
electronic mail, the parties may serve an electronic version of the papers on
opposing counsel via an electronic file transfer platform. The serving party will
telephone or email the other side's principal designee when the materials are sent to
alert them that the materials are being served. Service of court filings by 11:59 PM
Eastern Time shall be considered to have been filed on that day. For purposes of

1 this provision, service of all other correspondence, discovery requests, witness lists,
2 exhibit lists, objections, expert reports, and productions from parties and third
3 parties by 11:59 PM Eastern Time shall be considered served on that day.

4 23. Nationwide Service of Process. Good cause having been shown
5 in view of the geographic dispersion of potential witnesses in this action, the parties
6 will be allowed nationwide service of process of discovery and trial subpoenas
7 pursuant to Federal Rule of Civil Procedure 45 and 15 U.S.C. § 23, to issue from
8 this Court. The availability of nationwide service of process, however, does not
9 make a witness who is otherwise “unavailable” for purposes of Federal Rule of
10 Civil Procedure 32 and Federal Rule of Evidence 804 available under these rules
11 regarding the use at trial of a deposition taken in this action.

12 24. Third-Party Confidential Information. The Protective Order
13 entered by the Court on April 1, 2021 shall govern discovery and production of
14 Confidential Information. Any party serving discovery requests, notices, or
15 subpoenas sent to a non-party shall provide the non-party with a copy of the
16 Protective Order.

17 25. Privilege Logs. The parties agree to suspend the obligations of
18 Federal Rule of Civil Procedure 26(b)(5)(A) to produce a log of privileged
19 materials withheld from discovery taken in this action (excluding Defendants’
20 productions made during the course of the FTC’s pre-complaint investigation).
21 Notwithstanding the foregoing, the parties shall log withheld materials that are:
22 (1) authored by, addressed to, or received from any non-party; (2) internal to a party
23 that are not authored by, sent to, or received from the party’s attorneys; (3) authored
24 by, addressed to, or received from any party executive who serves both in-house
25 business and legal roles; and (4) authored by, addressed to, or received from any
26 executive who has a law degree, even if the executive is not a practicing attorney.
27 For purposes of this Paragraph, a “non-party” excludes a party’s retained expert and
28 employees of such expert within the meaning of Federal Rule of Civil Procedure

1 26(b) and/or Federal Rule of Evidence 702. The parties shall maintain all
2 documents responsive to a discovery request that they withhold pursuant to a claim
3 of privilege or protection. The FTC agrees to log any external communication
4 withheld due to deliberative process privilege. This Paragraph shall not alter either
5 Party's right to challenge any privilege claims made by either Party, including, but
6 not limited to, any deliberative process privilege claim.

7 26. Electronically Stored Information. The parties agree as follows
8 regarding the preservation and production of electronically stored information
9 ("ESI"):

10 a) All parties have established litigation holds to preserve
11 ESI that may be relevant to the expected claims and defenses in this case. In
12 addition, the parties have taken steps to ensure that automatic deletion systems will
13 not destroy any potentially relevant information.

14 b) All parties will request ESI in the form or forms that
15 facilitate efficient review of ESI. In general, the parties will produce ESI according
16 to the same ESI technical specifications used by Defendants in the FTC's pre-
17 complaint investigation.

18 27. Evidentiary Presumptions.

19 a) Documents produced by non-parties from the non-parties'
20 files shall be presumed to be authentic. Any good-faith objection to a document's
21 admissibility must be provided with the exchange of other objections to trial
22 exhibits. If a party serves a specific good-faith written objection to the document's
23 authenticity, the presumption of authenticity will no longer apply to that document
24 and the parties will promptly meet and confer to attempt to resolve any objection.
25 The Court will resolve any objections that are not resolved through this means or
26 through the discovery process.

27 b) All documents produced by a Defendant either in
28 response to document requests in this litigation or in the course of the FTC's pre-

1 complaint investigation of the proposed acquisition, FTC File No. 2021-0063, or
2 any prior FTC investigation, are presumed to be authentic. If a party serves a
3 specific good-faith written objection to any such document's authenticity, the
4 parties will promptly meet and confer to attempt to resolve any objection. The
5 Court will resolve any objections that are not resolved through this means or
6 through the discovery process.

7 28. Modification of Case Management and Scheduling Order. Any
8 party may seek modification of this Order for good cause.

9 29. Statements Regarding Local Rules 16.1 and 16.3. The parties
10 do not consent to assignment of this case to a magistrate judge for all purposes,
11 including trial. The parties are amenable to settling this case but, despite their pre-
12 Complaint efforts, have not been able to resolve their different views on the likely
13 effects of the proposed merger. Presently, the parties do not believe that the case
14 would benefit from the Court's alternative dispute resolution procedures.

15 30. Exhibit Lists. The parties shall exchange exhibit lists on or
16 before **July 16, 2021**. Objections shall be filed on or before **July 21, 2021**. The
17 parties will file their final exhibit lists with the Court on or before **July 23, 2021**.

18 31. Fact Witness Deposition/Investigational Hearing Designations.
19 The parties shall exchange affirmative fact witness deposition or investigational
20 hearing designations on or before **July 12, 2021**. Fact witness deposition or
21 investigational hearing counter-designations and objections to affirmative fact
22 witness deposition designations shall be exchanged on or before **July 16, 2021**.
23 Objections to fact witness deposition or investigational hearing counter-
24 designations shall be exchanged on or before **July 21, 2021**. Defendants reserve all
25 rights to object to designations that are in contravention of the Federal Rules of
26 Evidence. Defendants reserve all rights to object to Plaintiff's use, in its proposed
27 findings of fact or conclusions of law, of deposition designation testimony
28 (including investigational hearing testimony) of witnesses who were not disclosed

1 on Plaintiff's preliminary or final witness lists. Plaintiff similarly reserves all rights
2 to admit investigational hearing transcripts and deposition designations regardless
3 of whether those witnesses were included on the Plaintiff's preliminary,
4 supplemental, or final witness lists and to rely on those transcripts in the Findings
5 of Fact and Conclusions of Law. Plaintiff also reserves all right to argue for
6 designations consistent with the 16 C.F.R. § 3 and federal case law.

7 32. Federal Rule of Civil Procedure 6(a)(1)(C) is to be applied when
8 computing the deadlines in this Order.

9
10 It is **SO ORDERED**.

11 Dated: April 26, 2021



12
13 Hon. Cathy Ann Bencivengo
14 United States District Judge

15
16
17
18
19
20
21
22
23
24
25
26
27
28

OVERVIEW OF SCHEDULE

Event	Date(s)
Exchange of Preliminary Witness Lists, including Expert Witnesses	Two days post-entry of CMSO by Court
Deadline to serve Written Discovery to Parties	April 28, 2021
Deadline to serve Written Discovery to Third Parties	May 7, 2021
Deadline to serve Deposition Notices for Fact Witnesses	May 7, 2021
Exchange of Supplemental Witness Lists	May 14, 2021
Close of Fact Discovery	June 4, 2021
Plaintiff's Expert Report(s) due	June 8, 2021
Plaintiff's Memorandum of Law in Support of Preliminary Injunction Motion	June 18, 2021
Joint Proposal Regarding Designation of Fact Witness Testimony and Final Witness Lists	June 21, 2021
Defendants' Expert Report(s) due	June 29, 2021
Plaintiffs' Rebuttal Expert Report(s) due	July 9, 2021
Exchange of Affirmative Fact Witness Designations	July 12, 2021
Defendants' Opposition to Plaintiff's Motion for Preliminary Injunction	July 12, 2021
Close of Expert Discovery	July 16, 2021
Exchange of Exhibit Lists	July 16, 2021
Exchange of Fact Witness Counter-Designations and Objections to Affirmative Fact Witness Designations	July 16, 2021
Exchange of Final Witness Lists, including Expert Witnesses	July 19, 2021
Plaintiff's Reply Brief in Further Support of Motion for Preliminary Injunction	July 20, 2021
Last day for Motions In Limine to be filed	July 21, 2021
Exchange of Objections to Fact Witness Counter-Designations	July 21, 2021
Objections to Exhibit Lists	July 21, 2021
Final Exhibit Lists due	July 23, 2021
Last day for Responses to Motions In Limine to be filed	July 23, 2021
Pre-Hearing Conference	TBD
Evidentiary Hearing begins	August 9, 2021
Proposed Findings of Fact and Conclusions of Law	10 days after the close of the Hearing