

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

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In the Matter of)	
)	
Illumina, Inc.,)	
a corporation,)	Docket No. 9401
)	
and)	
)	
GRAIL, Inc.,)	
a corporation,)	
)	
Respondents.)	
_____)	

ORDER MEMORIALIZING BENCH RULINGS

On August 5, 2021, Respondents Illumina, Inc. and GRAIL, Inc. filed three motions in *limine* relating to expert witnesses: Motion *in Limine* to Exclude Expert Testimony of Dr. Fiona Scott Morton; Motion *in Limine* to Exclude Certain Testimony of Rebuttal Expert Witness Dr. Amol Navathe; and Motion *in Limine* to Exclude Certain Testimony of Rebuttal Expert Witness Dr. Dov Rothman. Also on August 5, 2021, Federal Trade Commission Complaint Counsel filed one motion *in limine* relating to expert witnesses: Motion *in Limine* to Exclude Certain Opinions of Respondents' Expert Witness, Richard Abrams, MD. Both sides filed oppositions to the other's motions *in limine* relating to expert witnesses. For the reasons stated on the record in open court, Respondents' and Complaint Counsel's motions *in limine* relating to expert witnesses were DENIED. (Final Prehearing Conference transcript, August 23, 2021, pp. 23-25).

On August 5, 2021, Respondents filed a Motion *in Limine* to Exclude Investigational Hearing Transcripts. Complaint Counsel filed an opposition. For the reasons stated on the record in open court, Respondents' Motion *in Limine* to Exclude Investigational Hearing Transcripts was DENIED. (Final Prehearing Conference transcript, August 23, 2021, pp. 35-38).

On August 5, 2021, Respondents filed a Motion *in Limine* to Exclude Improper Lay Witness Opinion Testimony. Complaint Counsel filed an opposition. For the reasons stated on the record in open court, Respondents' Motion *in Limine* to Exclude Improper Lay Witness Opinion Testimony was DENIED. (Final Prehearing Conference transcript, August 23, 2021, pp. 40-41).

On August 5, 2021, Respondents filed a Motion *in Limine* to Exclude the Investigational Hearing Testimony of Dr. David Spetzler and any Evidence from Caris. Complaint Counsel filed an opposition. The ruling on this motion was deferred in light of the subpoena enforcement request now before the Commission. (Final Prehearing Conference transcript, August 23, 2021, pp. 50-51).

On August 5, 2021, Respondents filed a Motion *in Limine* to Exclude Evidence of a Fact Witness's Divorce Proceedings. Complaint Counsel filed an opposition. For the reasons stated on the record in open court, Respondents' Motion *in Limine* to Exclude Evidence of a Fact Witness's Divorce Proceedings was DENIED. (Final Prehearing Conference transcript, August 23, 2021, pp. 51).

On August 5, 2021, Complaint Counsel filed a Motion to Exclude the Declaration and Deposition Transcript of George J. Serafin. Respondents filed an opposition. For the reasons stated on the record in open court, Complaint Counsel's Motion to Exclude the Declaration and Deposition Transcript of George J. Serafin was GRANTED. (Final Prehearing Conference transcript, August 23, 2021, pp. 51-52).

On August 15, 2021, Respondents filed a Motion to Allow Direct Examination to Proceed Before Cross-Examination of Party Witnesses. Complaint Counsel filed an opposition. For the reasons stated on the record in open court, Respondents' Motion to Allow Direct Examination to Proceed Before Cross-Examination of Party Witnesses was DENIED. (Final Prehearing Conference transcript, August 23, 2021, pp. 30-31).

On August 17, 2021, Respondent Illumina filed a Motion to Modify the Protective Order. Complaint Counsel filed an opposition. For the reasons stated on the record in open court, Respondent Illumina's Motion to Modify the Protective Order was DENIED. (Final Prehearing Conference transcript, August 23, 2021, pp. 13-14).

ORDERED:



D. Michael Chappell
Chief Administrative Law Judge

Date: August 25, 2021