

ORAL ORDER: Having carefully reviewed the parties' letters and attachments (D.I. 84 , 86) regarding the pending Motion for Teleconference to Resolve Discovery Dispute (D.I. 73) IT IS HEREBY ORDERED that Liquidia's request for an order compelling Dr. Ruffalo (or UTC counsel) to provide sworn responses to twelve questions is DENIED. It is evident that Liquidia's questions seek to determine if and when Dr. Ruffalo consulted with UTC's attorneys regarding briefs filed in IPRs concerning two of the patents-in-suit. (He did not testify in those proceedings.) Disclosure of that information in this proceeding is not required by Fed. R. Civ. P. 23(a)(2); the Court rejects any assertion that the answers to Liquidia's questions constitute "facts or data considered by" Dr. Ruffalo in forming his opinions. The record also reflects that UTC has complied with its disclosure obligations under Fed. R. Civ. P. 23(a)(2). Moreover, the Court finds that, under the particular circumstances here, the disclosure of information regarding the fact and timing of Dr. Ruffalo's communications with UTC's attorneys would violate the spirit, if not the letter, of Fed. R. Civ. P. 23(b)(3),(4). The Court is unpersuaded by Liquidia's contention that its questions "seek basic information that would otherwise be included on a privilege log." (D.I. 84 at 3.) If the communications need not be logged, for example, because they were between outside counsel and Dr. Ruffalo, the Court will not require Dr. Ruffalo to answer questions about them. The teleconference scheduled for 5/18 is CANCELLED. SO ORDERED by Judge Jennifer L. Hall on 5/17/2021. (ceg) Modified on 5/17/2021 (ceg). (Entered: 05/17/2021)

As of May 18, 2021, PACER did not contain a publicly available document associated with this docket entry. The text of the docket entry is shown above.

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