

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

In the Matter of

Illumina, Inc.,
a corporation, and

and

GRAIL, Inc.,
a corporation,

Respondents.

Docket No. 9401

**JOINT STIPULATION TO EXCLUDE CARIS-RELATED MATERIAL FROM THE
RECORD**

For the reasons set forth below, Complaint Counsel and Respondents Illumina, Inc. (“Illumina”) and GRAIL, Inc. (“GRAIL”) (together, the “Parties”), jointly stipulate that material related to Caris Life Sciences (“Caris”) be stricken from the record.¹ As is detailed in Respondents’ Motion to Withdraw Prior Motions Related to Caris Life Sciences, the Commission’s action to seek enforcement of the subpoenas to Caris remains pending in federal district court. Docket, *FTC v. Caris Life Sciences*, Case No. 1:21-mc-00115-RJL (D.D.C.). Since the subpoena enforcement request has been pending, the Parties have held a series of meet and confer teleconferences, and have reached an agreement to resolve the issues posed by the discovery dispute with Caris. Specifically, the Parties have agreed that neither Complaint Counsel nor Respondents will rely on any Caris-related material in this matter, and each party will withdraw any Caris-related material already in evidence.

¹ The parties file this Joint Stipulation concurrently with Respondents’ Motion to Withdraw Prior Motions Related to Caris Life Sciences, which Respondents filed on the condition that this Joint Stipulation be approved.

The below table lists each document for which the Parties have agreed to either withdraw from the record entirely, or partially redact to exclude any reference to Caris.² Exhibit 1 contains copies of each of the documents, with yellow highlighting to indicate where documents should be redacted.

² With the Court's permission, the Parties will re-file corrected pretrial briefs that are redacted in accordance with the table below.

Exhibit Number	Description	Date	Withdrawn or Redactions
PX6090	Expert Report of Dr. Fiona Scott Morton	7/2/2021	¶¶ 25, 29, 34, 37, 55, 64, 70, 85, 111-114, 152, 158, 180, 192, 203, 222; nn. 17, 31, 39, 40, 46, 47, 48, 49, 50, 51, 65, 74, 75, 84, 86, 89, 90, 128, 142, 145, 147, 161, 176-179, 213, 229-231, 393-409, 495, 501, 505, 506, 524, 576, 606, 612-613, 647, 707, 778; Table of Contents at E; Table 1 - Caris Entry; Appendix C at B; Appendix C at C
PX6091	Rebuttal Expert Report of Dr. Fiona Scott Morton	7/26/2021	¶¶ 66, 68; nn. 1, 65, 144, 151-152, 225
PX7129	Reserved: Depo Transcript of David Spetzler (Caris)		Withdraw from JX2
PX7132	Depo Transcript: Robert Willig (RC Expert)	8/1/2021	155:3-15
PX7138	Trial Depo Transcript: Fiona Scott Morton (CC Expert)	9/16/2021	117:3; 124:9-126:13; 268:9-15
			Withdraw from JX2
			Withdraw from JX2
			Withdraw from JX2
RX3042	Ashford M, Caris Life Sciences, Fueled by New Funding, Plans to Expand Liquid Biopsy Testing, Precision Oncology News, May 19, 2021, at https://www.precisiononcologynews.com/cancer/caris-life-sciences-fueled-new-funding-plans-expand-liquid-biopsy-testing#.YOBhobuSIPY .	5/19/2021	Withdraw from JX2
RX3097	Caris Life Sciences Raises \$830 Million in Growth Equity Capital to Continue to Expand its Precision Medicine Platform, Caris Life Sciences	5/11/2021	Withdraw from JX2
RX3098	Caris, Caris Life Sciences Submits Two PMA Applications to the FDA for Whole Exome and Whole Transcriptome Sequencing, at https://www.carislifesciences.com/about/news-and-	4/28/2020	Withdraw from JX2

Exhibit Number	Description	Date	Withdrawn or Redactions
	media/caris-life-sciences -submits-two-pma-applications-to-the-fda-for-whole-exome-and-whole-transcriptome-sequencing/.		
RX3099	Caris, CarisADAPT: Biotargeting System, at https://www.carislifesciences.com/product-pipeline/#carisadapt .		Withdraw from JX2
RX3100	Caris, MI GPSai, at https://www.carislifesciences.com/mi-gpsai/ .		Withdraw from JX2
RX3101	Caris, MI Tumor Seek™, at https://www.carismolecularintelligence.com/wp-content/uploads/2018/10/MI-Tumor-Seek-Profile-Menu .	6/29/2020	Withdraw from JX2
RX3123	Clinicaltrials.gov, Caris Biorepository Research Protocol, at https://clinicaltrials.gov/ct2/show/NCT01499394 .	12/26/2011	Withdraw from JX2
RX3852	Expert Deposition Transcript of Dr. Fiona Scott Morton	7/26/2021	93:15-95:14; 96:13-100:20; 136:21; 183:18-20
RX3864	Expert Rebuttal Report of Dennis W. Carlton	7/16/2021	¶¶ 40, 90; nn. 70, 141-146, 197, 232
RX3865	Expert Report and Declaration of Margaret Guerin-Calvert	7/16/2021	¶¶ 26, 30, 101; nn. 25, 141; Table I.
RX3869	Expert Report and Declaration of Dr. Richard J. Cote	7/16/2021	¶¶ 123, 150, 152, 153, 160-169, 171, 172; nn. 133, 134, 195, 208-222, 225-231; Appendix D at 3.
RX3871	Expert Report and Declaration of Robert D. Willig	7/16/2021	¶¶ 27, 38, 57, 60; nn. 35, 85, 118, 143, 144; Table I - Caris entry; C-5 - News, Press and Websites listing #5.
RX5001	Document Subpoena: Caris Life Sciences, Inc. (Part III)	5/28/2021	Withdraw from JX3
RX5002	Document Subpoena: Caris Life Sciences, Inc. (District Court)	4/8/2021	Withdraw from JX3
RX6002	Videotaped Trial Depo & Transcript: Margaret Guerin-Calvert (RC Expert)	9/30/2021	20:9

Exhibit Number	Description	Date	Withdrawn or Redactions
RX6004	Videotaped Trial Depo & Transcript: Michael Katz (RC Expert)	11/1/2021	82:9-83:10; 84:2-6; 133:14-18
	Trial Transcript Vol. 1	8/24/2021	39:2-3; 109:22-24; 206:17-19
	Trial Transcript Vol. 2	8/25/2021	556:10-24
	Trial Transcript Vol. 15	9/20/2021	3861:5-3865:19; 3882:11
	Respondents' Pretrial Brief	8/18/2021	pp. 5, 24, 30, 31; nn. 4, 65, 66
	Complaint Counsel's Pretrial Brief	8/18/2021	nn. 27, 58, 225, 265, 298-299, 301, 305, 313, 318, 341, 348, 366, 448, 457, 462, 587, 590

For the foregoing reasons, Complaint Counsel and Respondents jointly stipulate that the above exhibits be stricken from the record entirely, or partially redacted to exclude any reference to Caris.

Dated: February 9, 2022

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on February 9, 2022, I filed the foregoing document electronically using the FTC's E-Filing System, which will send notification of such filing to:

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The Honorable D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-110
Washington, DC 20580

I also certify that I caused the foregoing document to be served via email to:

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CERTIFICATE FOR ELECTRONIC FILING

I certify that the electronic copy sent to the Secretary of the Commission is a true and correct copy of the paper original and that I possess a paper original of the signed document that is available for review by the parties and the adjudicator.

February 9, 2022

/s/ Sharonmoyee Goswami
Sharonmoyee Goswami

EXHIBIT 1
FILED *IN CAMERA*
VIA FILE TRANSFER

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In the Matter of

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[PROPOSED] ORDER APPROVING JOINT STIPULATION TO EXCLUDE CARIS-RELATED MATERIAL FROM THE RECORD

On February 9, 2022, Complaint Counsel and Respondents Illumina, Inc. (“Illumina”) and GRAIL, Inc. (“GRAIL”) (together, the “Parties”), filed a joint stipulation to exclude material related to Caris Life Sciences (“Caris”) from the record. It is hereby ORDERED that the joint stipulation is APPROVED and that following documents will be stricken from the record or redacted to exclude any reference to Caris. It is hereby further ORDERED that the Parties file corrected pretrial briefs redacted in accordance with the table below within 5 days of this Order.

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PX6090	Expert Report of Dr. Fiona Scott Morton	7/2/2021	¶¶ 25, 29, 34, 37, 55, 64, 70, 85, 111-114, 152, 158, 180, 192, 203, 222; nn. 17, 31, 39, 40, 46, 47, 48, 49, 50, 51, 65, 74, 75, 84, 86, 89, 90, 128, 142, 145, 147, 161, 176-179, 213, 229-231, 393-409, 495, 501, 505, 506, 524, 576, 606, 612-613, 647, 707, 778; Table of Contents at E; Table 1 - Caris Entry; Appendix C at B; Appendix C at C
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RX3101	Caris, MI Tumor Seek™, at https://www.carismolecularintelligence.com/wp-content/uploads/2018/10/MI-Tumor-Seek-Profile-Menu .	6/29/2020	Withdraw from JX2
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ORDERED:

D. Michael Chappell
Chief Administrative Law Judge

Dated: