

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



In the Matter of

Benco Dental Supply Co.,
a corporation,

Henry Schein, Inc.,
a corporation, and

Patterson Companies, Inc.,
a corporation.

Respondents

Docket No. 9379

RESPONDENT HENRY SCHEIN, INC.'S
MOTION TO COMPEL EXPERT DISCLOSURES

Schein seeks an order compelling compliance with this Court's rules and orders requiring the disclosure of materials considered and relied upon by Complaint Counsel's sole expert, Dr. Robert Marshall.

Rule 3.31A(c) requires that any expert report contain "the data, materials, and other information *considered by the witness* in forming [his] opinions." In addition, Paragraph 19(b) of the Scheduling Order requires Complaint Counsel to "comply with Rule 3.31A and ... [to] provide ... all documents and other written material *relied upon by the expert* in formulating an opinion." Taken together, this requires Complaint Counsel to furnish two lists for any expert witness: the materials the witness relied upon, and the materials the witness considered.

Dr. Marshall's expert report included an Appendix containing a list of over 5,400 Bates-stamped documents, 135 full transcripts from various cases (plus all exhibits thereto), and hundreds of other documents, all of which he says he and "his staff ... considered in preparing [his] report." Marshall Rpt. ¶7. This kitchen-sink list does not comply with Complaint Counsel's

obligations in two respects. *First*, the Appendix does not disclose what the *witness* considered (or relied upon), as opposed to his staff. *Second*, the Appendix does not disclose the materials *relied upon* as required by the Scheduling Order.

Schein raised this issue with Complaint Counsel, and requested that they cure the deficiency. They refused, as reflected in the attached correspondence. *See* Exhibit A.

Complaint Counsel's refusal is not justified. Complaint Counsel first argues that they do not need to distinguish between the information that Dr. Marshall considered (and relied upon) and the information that his staff may have considered. But that argument is contradicted by the plain language of Rule 3.31A and the Scheduling Order. The Rule requires the disclosure of materials "considered by the witness," and the Scheduling Order requires disclosure of materials "relied upon by the expert." Dr. Marshall's staff members are neither witnesses nor testifying experts.¹

The Rule's focus on what the testifying expert considered facilitates effective cross-examination at deposition (or trial) because it will allow the Respondents to efficiently expose gaps in the expert's knowledge, including whether he *himself* was aware of contradictory evidence when espousing the opinions in his report. *See* Fed. R. Evid. 702 (noting that an expert's opinion must be "based on sufficient facts or data," and be the product of "reliable principles ... reliably applied ... to the facts of the case"). Such disclosure is also necessary to obtain testimony that will be helpful to the Court about the basis for, and reliability of, the opinions in the report. Otherwise, with only Dr. Marshall's 200-page Appendix listing a large portion of the immense

¹ The Scheduling Order specifically distinguishes between "an expert(s) and persons assisting the expert(s)" with respect to expert disclosure obligations. *See* Scheduling Order ¶ 19(g)(ii). Because the requirement is to disclose what the expert considered or relied upon, and not what "persons assisting the expert" considered or relied upon, Complaint Counsel cannot satisfy its disclosure obligations by citing to materials Dr. Marshall has never even looked at.

record in this case, Dr. Marshall can make the sweeping claim that his opinions are the result of someone (but not necessarily him) having reviewed hundreds of thousands of pages of evidence that, in fact, he has never seen. Indeed, were the Court not to enforce the Rule and Scheduling Order as written, then every expert would simply instruct staff to peruse the entire record in the case and list every document and deposition, making the disclosure virtually pointless.

Complaint Counsel next argues that it does not need to distinguish between Dr. Marshall and his staff because the “communication and work product shared between expert(s) and persons assisting the experts(s)” are immune from disclosure under Paragraph 19(g)(ii) of the Scheduling Order. This argument is specious for two reasons. *First*, Schein seeks compliance with the explicit rule requiring disclosure of what the expert considered. It is not asking, nor does the rule require, Complaint Counsel to disclose any communications between Dr. Marshall and his staff, or indeed any information about what his staff may or may not have considered. *Second*, Paragraph 19(g)(ii) must be viewed in light of the express command in Paragraph 19(a) and Rule 3.31A to make specific expert disclosures. There is no reason why this Court should read Paragraph 19(g)(ii) to preempt these express disclosure requirements, especially when Paragraph 19(g)(ii) does not directly speak to the issue and is easily reconciled with the more-specific disclosure requirements.²

Complaint Counsel also argues that it need not distinguish between the information that Dr. Marshall considered and what he relied upon. As noted above, Rule 3.31A and Paragraph

² The requirement to disclose the materials that Dr. Marshall personally considered and relied upon does not prevent Dr. Marshall from relying on work performed by his staff. Nor does it require disclosure of communications between “the expert and persons assisting the experts,” except as permitted by Paragraph 19(g). Only if an expert personally considers or relies on an underlying document, must such document be disclosed. So too, if an expert relies on data formulations, data runs, data analysis, or any data-based operations in forming the opinions in his or her final report, then such information must be disclosed even if the expert’s staff was the original creator of such formulations, runs, analysis, or operations.

19(b) clearly require Complaint Counsel to disclose *both* the information considered *and* the information relied upon. *See* Scheduling Order, at ¶19(b) (noting that the “parties are required to comply with Rule 3.31A *and* with the following: ... the producing party shall provide to the other party all documents and other written materials relied upon by the expert....”). Respondents are entitled to know the *basis* for his opinions – *i.e.*, what he relied upon – and whether he *considered* information that may be inconsistent with those opinions. Disclosure of only the latter does not provide Respondents and their experts with the information needed to fully understand the foundation on which Dr. Marshall based his opinions and to probe the link between those materials and his opinions.

In response, Complaint Counsel has confirmed that the numerous documents cited in the body of the report (including footnotes) are among the materials Dr. Marshall relied upon. But they have refused to confirm that those are the *only* materials he relied upon. To the extent that Complaint Counsel represents that Dr. Marshall himself relied on each of those documents and those are the *only* documents he relied upon, then that would satisfy the requirements of Paragraph 19(a)(iii). But Complaint Counsel has, so far, refused to make such a representation, suggesting that they cannot do so. Moreover, neither the disclosure of documents cited in the body of the report nor Appendix B identifies those documents that Dr. Marshall “considered,” as required by Rule 3.31A. Failure to make such a disclosure would allow Dr. Marshall to cite documents at his deposition (or at trial) that are not in the body of the report and have not been disclosed as materials that Dr. Marshall himself has considered. This is exactly what Rule 3.31A was designed to prevent.

CONCLUSION

For these reasons, we request that Complaint Counsel be ordered to comply with Rule 3.31A and Paragraph 19(a)(iii) of the Scheduling Order by disclosing: (i) all information that Dr. Marshall personally relied upon in forming his opinions, and (ii) all information that he personally considered in forming those opinions.

Dated: August 31, 2018

Respectfully submitted,

/s/ Colin R. Kass

John P. McDonald
jpmcdonald@lockelord.com
LOCKE LORD LLP
2200 Ross Avenue, Suite 2800
Dallas, TX 75201
(214) 740-8000 (Telephone)
(214) 740-8800 (Facsimile)

Lauren M. Fincher
lfincher@lockelord.com
LOCKE LORD LLP
600 Congress Avenue, Suite 2200
Austin, Texas 78701
512-305-4700 (Telephone)
512-305-4800 (Facsimile)

Colin R. Kass
ckass@proskauer.com
Adrian Fontecilla
afontecilla@proskauer.com
PROSKAUER ROSE LLP
1001 Pennsylvania Ave., NW
Suite 600 South
Washington, DC 20004
Telephone: (202) 416-6800
Fax: (202) 416-6899

Tim Muris
tmuris@sidley.com
SIDLEY AUSTIN LLP
1501 K Street, N.W.

Washington, D.C. 20005
Telephone: (202) 736-8000
Facsimile: (202) 736-8711

*ATTORNEYS FOR RESPONDENT
HENRY SCHEIN, INC.*

Exhibit A

From: Fontecilla, Adrian
Sent: Friday, August 31, 2018 5:25 PM
To: Moy, Jessica; Kahn, Lin
Cc: In-re-Benco-Schein-Patterson-Service; Kass, Colin; John P. McDonald; Masters, Owen T.; Lauren Fincher
Subject: RE: Marshall Report

Jessica,

We have provided you the basis for our request – which are the Scheduling Order and Rule 3.31A. We have made clear that the only resolution to this requires prompt service of the two disclosures required: (1) materials relied upon by Dr. Marshall; and (2) materials considered by Dr. Marshall. Neither has been provided yet. Given that our expert report is due next week and Complaint Counsel has made clear that it does not intend to provide anything other than Appendix B, we are at an impasse and intend to file a motion today.

Best,
Adrian

Adrian Fontecilla
202.416.5863
afontecilla@proskauer.com

From: Moy, Jessica <jmoy@ftc.gov>
Sent: Friday, August 31, 2018 4:07 PM
To: Fontecilla, Adrian <afontecilla@proskauer.com>; Kahn, Lin <lkahn@ftc.gov>
Cc: In-re-Benco-Schein-Patterson-Service <In-re-Benco-Schein-Patterson-Service@ftc.gov>; Kass, Colin <CKass@proskauer.com>; John P. McDonald <jpmcdonald@lockelord.com>; Masters, Owen T. <omasters@proskauer.com>; Lauren Fincher <LFincher@lockelord.com>
Subject: RE: Marshall Report

Hello Adrian: we have provided you with authority for our position, asked to consider yours, and expressed that we are open to continuing the dialogue.

Jessica

From: Fontecilla, Adrian <afontecilla@proskauer.com>
Sent: Friday, August 31, 2018 12:49 PM
To: Moy, Jessica <jmoy@ftc.gov>; Kahn, Lin <lkahn@ftc.gov>
Cc: In-re-Benco-Schein-Patterson-Service <In-re-Benco-Schein-Patterson-Service@ftc.gov>; Kass, Colin <CKass@proskauer.com>; John P. McDonald <jpmcdonald@lockelord.com>; Masters, Owen T. <omasters@proskauer.com>; Lauren Fincher <LFincher@lockelord.com>
Subject: RE: Marshall Report

Jessica,

Thank you for meeting and conferring with us over the course of the last week to try to resolve this dispute. It appears we are now at an impasse.

Best,
Adrian

Adrian Fontecilla
202.416.5863
afontecilla@proskauer.com

From: Moy, Jessica <jmoy@ftc.gov>
Sent: Friday, August 31, 2018 12:31 AM
To: Fontecilla, Adrian <afontecilla@proskauer.com>; Kahn, Lin <lkahn@ftc.gov>
Cc: In-re-Benco-Schein-Patterson-Service <In-re-Benco-Schein-Patterson-Service@ftc.gov>; Kass, Colin <CKass@proskauer.com>; John P. McDonald <jpmcdonald@lockelord.com>
Subject: RE: Marshall Report

Hello Adrian:

The questions in your email raise issues related to “communication and work product shared between expert(s) and persons assisting the experts(s)” which are explicitly protected from disclosure under the Scheduling Order ¶19(g)(ii). To the extent that Respondents have unobjectionable questions, they have more than ample deposition time with Dr. Marshall (11 hours) to explore the basis for his opinions.

Additionally, we request that you identify any and all legal authority indicating a requirement to separate materials that the expert and his/her staff considered. We are happy to consider legal authority that you provide for your position.

Jessica

From: Fontecilla, Adrian <afontecilla@proskauer.com>
Sent: Wednesday, August 29, 2018 2:30 PM
To: Moy, Jessica <jmoy@ftc.gov>; Kahn, Lin <lkahn@ftc.gov>
Cc: In-re-Benco-Schein-Patterson-Service <In-re-Benco-Schein-Patterson-Service@ftc.gov>; Kass, Colin <CKass@proskauer.com>; John P. McDonald <jpmcdonald@lockelord.com>
Subject: RE: Marshall Report

Jessica,

I think our emails may be talking past each other. I will try to clarify in the following for questions:

First, our understanding is that Dr. Marshall, *himself*, relied on all of the materials cited in the body and footnotes in his report. If that is not accurate, or if Complaint Counsel will not answer that question, please let me know.

Second, our understanding is that Dr. Marshall, *himself*, may have relied on materials outside of the information cited in the body and footnotes in his report. If that is true, then we request that you produce a list of such

information. Please let us know if you will do so. If that Dr. Marshall did not rely on any information outside of the information cited in the body and footnotes of his report, we ask that you state that fact expressly. If Complaint Counsel refuses to answer whether Dr. Marshall, himself, relied on materials outside of the information cited in the body and footnotes of this report, we ask that you state that fact expressly.

Third, our understanding that Dr. Marshall, *himself*, may have considered materials outside of the information cited in the body and footnotes of his report, but Complaint Counsel is refusing to identify such information, on the grounds that there purportedly is no requirement to distinguish between what Dr. Marshall considered and what his staff considered. If that is not correct, we ask that you identify such information.

Fourth, our understanding that Dr. Marshall and his staff may have considered materials, including information that is and is not cited in the body and footnotes of his report, and that such information is reflected in Appendix B to Dr. Marshall's report. If that is not correct, please let us know.

We would appreciate the courtesy of a written response to each of the four points above.

Adrian Fontecilla

202.416.5863

afontecilla@proskauer.com

From: Moy, Jessica <jmoy@ftc.gov>

Sent: Wednesday, August 29, 2018 3:09 PM

To: Fontecilla, Adrian <afontecilla@proskauer.com>; Kahn, Lin <lkahn@ftc.gov>

Cc: In-re-Benco-Schein-Patterson-Service <In-re-Benco-Schein-Patterson-Service@ftc.gov>; Kass, Colin <CKass@proskauer.com>; John P. McDonald <jpmcdonald@lockelord.com>

Subject: RE: Marshall Report

Hello Adrian:

Dr. Marshall considered many materials in formulating the opinions of his report, as identified in Appendix B. Your understanding is correct that materials relied upon by Dr. Marshall are those cited in his report. Dr. Marshall provided citations to materials in the body and footnotes of his report to support his opinion. In this sense, he is relying on these materials to support his opinion.

I am in and out of meetings today but am generally available if you are confused and would like to discuss.

Jessica

From: Fontecilla, Adrian <afontecilla@proskauer.com>

Sent: Wednesday, August 29, 2018 10:01 AM

To: Moy, Jessica <jmoy@ftc.gov>; Kahn, Lin <lkahn@ftc.gov>
Cc: In-re-Benco-Schein-Patterson-Service <In-re-Benco-Schein-Patterson-Service@ftc.gov>; Kass, Colin <CKass@proskauer.com>; John P. McDonald <jpmcdonald@lockelord.com>
Subject: RE: Marshall Report

Jessica,

I just want to confirm what you are saying in the second sentence – beyond those materials cited in the body and footnotes of Dr. Marshall’s report, Dr. Marshall did not rely on any other documents in forming his opinions. If that understanding is incorrect, please let me know a time today we can discuss.

Best,
Adrian

Adrian Fontecilla
202.416.5863
afontecilla@proskauer.com

From: Moy, Jessica <jmoy@ftc.gov>
Sent: Wednesday, August 29, 2018 12:47 PM
To: Fontecilla, Adrian <afontecilla@proskauer.com>; Kahn, Lin <lkahn@ftc.gov>
Cc: In-re-Benco-Schein-Patterson-Service <In-re-Benco-Schein-Patterson-Service@ftc.gov>; Kass, Colin <CKass@proskauer.com>; John P. McDonald <jpmcdonald@lockelord.com>
Subject: RE: Marshall Report

Hello Adrian:

The materials identified in the Marshall Report comply with the rules governing this matter. In addition to his training and experience, Dr. Marshall relied upon the materials cited in the body and footnotes of his report. We are not aware of any authority that requires a separation of materials that the expert and his/her staff considered.

Jessica

From: Fontecilla, Adrian <afontecilla@proskauer.com>
Sent: Monday, August 27, 2018 4:17 PM
To: Kahn, Lin <lkahn@ftc.gov>
Cc: In-re-Benco-Schein-Patterson-Service <In-re-Benco-Schein-Patterson-Service@ftc.gov>; Kass, Colin <CKass@proskauer.com>; John P. McDonald <jpmcdonald@lockelord.com>
Subject: Re: Marshall Report

Lin - Respondents’ expert reports are due next week, so we request a response to the below email by tomorrow. We reserve all rights, including to petition for an extension of our expert report deadline as a result of Complaint Counsel’s failure to comply with the rules and the Scheduling Order.

Best,
Adrian

Adrian Fontecilla
Proskauer
1001 Pennsylvania Avenue, NW

Suite 600 South
Washington, DC 20004-2533
office 202.416.5863
cell 917.254.3932
afontecilla@proskauer.com

On Aug 24, 2018, at 2:32 PM, Fontecilla, Adrian <afontecilla@proskauer.com> wrote:

Lin,

We write to raise an issue concerning Appendix B of Dr. Marshall's expert report, which purports to contain a list of the materials that Dr. Marshall and "[his] staff" considered in preparing the report.

We believe that Appendix B does not comport with Complaint Counsel's disclosure obligations in two respects. First, it is not limited to what Dr. Marshall considered or relied upon, as opposed to what his staff may have considered or relied upon. Second, it does not disclose the materials that Dr. Marshall "relied upon," as distinct from and in addition to the materials that he "considered."

Rule 3.31A(c) requires that any expert report contain "the data, materials, and other information considered *by the witness* in forming [his] opinions." Appendix B appears to contain information considered by Bates White staff, but not necessarily Dr. Marshall himself. As such, Appendix B does not comply with Rule 3.31A(c). Put simply, we are entitled to know what materials Dr. Marshall himself considered.

In addition, Paragraph 19(b) of the Scheduling Order requires Complaint Counsel to "comply with Rule 3.31A **and** ... [to] provide ... all documents **relied upon** by the expert in formulating an opinion." Appendix B, however, appears to include documents considered but not relied upon. As such, Appendix B also does not comply with Paragraph 19(b). Likewise, we are entitled to know what materials Dr. Marshall is relying upon, as opposed to having simply reviewed or considered.

To the extent Dr. Marshall has personally considered (*i.e.*, reviewed) and is **relying** on all documents in Appendix B, we request that you state that fact expressly. Conversely, if Dr. Marshall has considered and *only* considered, **and** has relied upon and has *only* relied upon, the documents expressly cited in the body of the report (excluding Appendix B), then we similarly request that you state that fact expressly.

If, however, neither of those alternatives are true, we request that you produce two new lists, identifying: (i) the documents "considered by [Dr. Marshall] in forming [his] opinions," and (ii) the documents "relied upon by [Dr. Marshall] in formulating [any] opinion."

Please let us know promptly whether Complaint Counsel will agree to do so.

Best,
Adrian

Adrian Fontecilla

Proskauer

1001 Pennsylvania Avenue, NW

Suite 600 South

Washington, DC 20004-2533

office 202.416.5863

cell 917.254.3932

afontecilla@proskauer.com

This message and its attachments are sent from a law firm and may contain information that is confidential and protected by privilege from disclosure.

If you are not the intended recipient, you are prohibited from printing, copying, forwarding or saving them.

Please delete the message and attachments without printing, copying, forwarding or saving them, and notify the sender immediately.

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

In the Matter of

**BENCO DENTAL SUPPLY CO.,
a corporation,**

**HENRY SCHEIN, INC.,
a corporation, and**

**PATTERSON COMPANIES, INC.,
a corporation.**

Docket No. 9379

**STATEMENT REGARDING MEET AND CONFER
PURSUANT TO 16 C.F.R. § 3.22(g)**

Respondent Henry Schein, Inc. (“Schein”), respectfully submits this Statement, pursuant to Rule 3.22(g) of the Federal Trade Commission’s Rules of Adjudicative Practice.

Schein has met and conferred in good faith with Complaint Counsel in an effort to reach a mutually acceptable agreement on Dr. Marshall’s report and disclosures. Unfortunately, despite the parties’ best efforts, the parties have been unable to come to an agreement. The parties have exchanged numerous emails since August 24, 2018 discussing their respective positions. *See* Exhibit A.

On August 31, 2018, after repeated requests by Schein for the required disclosures by Dr. Marshall were rejected by Complaint Counsel, impasse was reached.

Dated: August 31, 2018

Respectfully submitted,

/s/ Colin R. Kass

John P. McDonald

jpmcdonald@lockelord.com

LOCKE LORD LLP

2200 Ross Avenue, Suite 2800
Dallas, TX 75201
(214) 740-8000 (Telephone)
(214) 740-8800 (Facsimile)

Lauren M. Fincher
lfincher@lockelord.com
LOCKE LORD LLP
600 Congress Avenue, Suite 2200
Austin, Texas 78701
512-305-4700 (Telephone)
512-305-4800 (Facsimile)

Colin R. Kass
ckass@proskauer.com
Adrian Fontecilla
afontecilla@proskauer.com
PROSKAUER ROSE LLP
1001 Pennsylvania Ave., NW
Suite 600 South
Washington, DC 20004
Telephone: (202) 416-6800
Fax: (202) 416-6899

Tim Muris
tmuris@sidley.com
SIDLEY AUSTIN LLP
1501 K Street, N.W.
Washington, D.C. 20005
Telephone: (202) 736-8000
Facsimile: (202) 736-8711

*ATTORNEYS FOR RESPONDENT
HENRY SCHEIN, INC.*

CERTIFICATE OF SERVICE

I hereby certify that on August 31, 2018 I delivered a true and correct copy of the enclosed motion and proposed order to the following individuals by email:

Lin Kahn(Attorney)
lkahn@ftc.gov
Ronnie Solomon(Attorney)
rsolomon@ftc.gov
Matthew D. Gold(Attorney)
mgold@ftc.gov
John Wiegand(Attorney)
jwiegand@ftc.gov
Erika Wodinsky(Attorney)
ewodinsky@ftc.gov
Boris Yankilovich(Attorney)
byankilovich@ftc.gov
Jeanine K. Balbach(Attorney)
jbalbach@ftc.gov
Thomas H. Brock(Attorney)
tbrock@ftc.gov
Jasmine Rosner(Attorney)
jrosner@ftc.gov
Federal Trade Commission
901 Market St., Ste.570
San Francisco, CA 94103

Counsel Supporting the Complaint

Howard Scher
howard.scher@bipc.com
Kenneth Racowski
kenneth.racowski@bipc.com
CarrieAmezcu
carrie.amezcua@bipc.com
Buchanan Ingersoll & Rooney PC
50 S. 16th Street Suite 3200
Philadelphia, PA 19102

Geoffrey D. Oliver
gdoliver@jonesday.com
Jones Day
51 Louisiana Avenue NW
Washington, DC 20001
PhoneNumber:202-879-3939

Craig A. Waldman
cwaldman@jonesday.com
Benjamin M. Craven
bcraven@jonesday.com
Ausra O. Deluard
adeluard@jonesday.com
Jones Day
555 California Street
26th Floor
San Francisco, CA 94104
Phone Number: 415-626-3939

Counsel for Respondent Benco Dental Supply Company

James Long(Attorney)
jlong@briggs.com
Jay Schlosser(Attorney)
jschlosser@briggs.com
Scott Flaherty(Attorney)
sflaherty@briggs.com
Ruvn Jayasuriya(Attorney)
rjayasuriya@briggs.com
William Fitzsimmons(Attorney)
wfitzsimmons@briggs.com
Briggs and Morgan, P.A.
2200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402
Phone Number: 612-977-8400
Fax Number: 612-977-8650

Joseph Ostoyich
joseph.ostoyich@bakerbotts.com
William Lavery
william.lavery@bakerbotts.com
Andrew George
andrew.george@bakerbotts.com
Jana Seidl
jana.seidl@bakerbotts.com
Kristen Lloyd
kristen.lloyd@bakerbotts.com
Baker Botts L.L.P.
1299 Pennsylvania Ave NW
Washington, DC 20004
Phone Number: 202-639-7905

Counsel for Respondent Patterson Companies, Inc.

/s/ Adrian Fontecilla

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

In the Matter of

**BENCO DENTAL SUPPLY CO.,
a corporation,**

**HENRY SCHEIN, INC.,
a corporation, and**

**PATTERSON COMPANIES, INC.,
a corporation.**

Docket No. 9379

**[PROPOSED] ORDER GRANTING RESPONDENT HENRY SCHEIN,
INC. MOTION TO COMPEL EXPERT DISCLOSURES**

Upon consideration of Respondent Henry Schein, Inc.'s Motion to Compel Expert Disclosures,

IT IS HEREBY ORDERED that the Motion is **GRANTED**; and

IT IS HEREBY ORDERED that Complaint Counsel promptly serve the two lists required by Rule 3.31A and Paragraph 19(b) of the Scheduling Order listing materials considered by Dr. Marshall and materials relied upon by Dr. Marshall.

SO ORDERED, this ____ day of September, 2018.

D. Michael Chappell Chief Administrative Law
Judge

Notice of Electronic Service

I hereby certify that on August 31, 2018, I filed an electronic copy of the foregoing Respondent Henry Schein Inc's Motion to Compel Expert Disclosures, with:

D. Michael Chappell
Chief Administrative Law Judge
600 Pennsylvania Ave., NW
Suite 110
Washington, DC, 20580

Donald Clark
600 Pennsylvania Ave., NW
Suite 172
Washington, DC, 20580

I hereby certify that on August 31, 2018, I served via E-Service an electronic copy of the foregoing Respondent Henry Schein Inc's Motion to Compel Expert Disclosures, upon:

Lin Kahn
Attorney
Federal Trade Commission
lkahn@ftc.gov
Complaint

Ronnie Solomon
Attorney
Federal Trade Commission
rsolomon@ftc.gov
Complaint

Matthew D. Gold
Attorney
Federal Trade Commission
mgold@ftc.gov
Complaint

John Wiegand
Attorney
Federal Trade Commission
jwiegand@ftc.gov
Complaint

Erika Wodinsky
Attorney
Federal Trade Commission
Complaint

Boris Yankilovich
Attorney
Federal Trade Commission
byankilovich@ftc.gov
Complaint

Jeanine K. Balbach
Attorney
Federal Trade Commission
jbalbach@ftc.gov
Complaint

Thomas H. Brock
Attorney
Federal Trade Commission
TBrock@ftc.gov
Complaint

Jasmine Rosner
Attorney
Federal Trade Commission
jrosner@ftc.gov
Complaint

Howard Scher
Attorney
Buchanan Ingersoll & Rooney PC
howard.scher@bipc.com
Respondent

Kenneth Racowski
Attorney
Buchanan Ingersoll & Rooney PC
kenneth.racowski@bipc.com
Respondent

Carrie Amezcua
Attorney
Buchanan Ingersoll & Rooney PC
carrie.amezcua@bipc.com
Respondent

John McDonald
Locke Lord LLP
jpmcdonald@lockelord.com
Respondent

Lauren Fincher
Locke Lord LLP
lfincher@lockelord.com
Respondent

Colin Kass
Proskauer Rose LLP
ckass@proskauer.com
Respondent

Adrian Fontecilla
Associate
Proskauer Rose LLP
afontecilla@proskauer.com
Respondent

Timothy Muris
Sidley Austin LLP
tmuris@sidley.com
Respondent

Geoffrey D. Oliver
Jones Day

gdoliver@jonesday.com
Respondent

Craig A. Waldman
Partner
Jones Day
cwaldman@jonesday.com
Respondent

Benjamin M. Craven
Jones Day
bcraven@jonesday.com
Respondent

Ausra O. Deluard
Jones Day
adeluard@jonesday.com
Respondent

Joseph Ostoyich
Partner
Baker Botts L.L.P.
joseph.ostoyich@bakerbotts.com
Respondent

William Lavery
Senior Associate
Baker Botts L.L.P.
william.lavery@bakerbotts.com
Respondent

Andrew George
Baker Botts L.L.P.
andrew.george@bakerbotts.com
Respondent

Jana Seidl
Baker Botts L.L.P.
jana.seidl@bakerbotts.com
Respondent

Kristen Lloyd
Associate
Baker Botts L.L.P.
Kristen.Lloyd@bakerbotts.com
Respondent

James Long
Attorney
Briggs and Morgan, P.A.
jlong@briggs.com
Respondent

Jay Schlosser
Attorney
Briggs and Morgan, P.A.
jschlosser@briggs.com
Respondent

Scott Flaherty
Attorney
Briggs and Morgan, P.A.
sflaherty@briggs.com
Respondent

Ruvin Jayasuriya
Attorney
Briggs and Morgan, P.A.
rjayasuriya@briggs.com
Respondent

William Fitzsimmons
Attorney
Briggs and Morgan, P.A.
wfitzsimmons@briggs.com
Respondent

Hyun Yoon
Buchanan Ingersoll & Rooney PC
eric.yoon@bipc.com
Respondent

David Owyang
Attorney
Federal Trade Commission
dowyang@ftc.gov
Complaint

Karen Goff
Attorney
Federal Trade Commission
kgoff@ftc.gov
Complaint

Emily Burton
Attorney
Federal Trade Commission
eburton@ftc.gov
Complaint

Jessica Drake
Attorney
Federal Trade Commission
jdrake@ftc.gov
Complaint

Ashley Masters
Attorney
Federal Trade Commission
amasters@ftc.gov
Complaint

Terry Thomas
Attorney
Federal Trade Commission
tthomas1@ftc.gov
Complaint

Danica Nobel
Attorney
Federal Trade Commission
dnoble@ftc.gov
Complaint

Mary Casale
Attorney
Federal Trade Commission
mcasale@ftc.gov
Complaint

Thomas Manning
Buchanan Ingersoll & Rooney PC
Thomas.Manning@bipc.com
Respondent

Sarah Lancaster
Locke Lord LLP
slancaster@lockelord.com
Respondent

Owen Masters
Associate
Proskauer Rose LLP
omasters@proskauer.com
Respondent

Stephen Chuk
Proskauer Rose LLP
schuk@proskauer.com
Respondent

Rucha Desai
Associate
Proskauer Rose LLP
rdesai@proskauer.com
Respondent

Jessica Moy
Federal Trade Commission
jmoy@ftc.gov
Complaint

Thomas Dilickrath
Federal Trade Commission
tdilickrath@ftc.gov
Complaint

Adrian Fontecilla
Attorney