

PUBLIC

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

In the Matter of)	
)	
H&R Block Inc.,)	
a corporation,)	
)	Docket No. 9427
HRB Digital LLC,)	
a limited liability company, and)	
)	
HRB Tax Group, Inc.,)	
a corporation,)	
)	
Respondents.)	

**ORDER DENYING RESPONDENTS’ MOTION TO EXCEED
MOTION IN LIMINE WORD COUNT LIMIT**

Respondents have moved to expand the word count limit for motions in limine (“MILs”), set out in Additional Provision 16 of the March 22, 2024 Scheduling Order in this matter.

Specifically, Respondents seek to raise the limit from 750 words to 5,000 words for MILs for their intended “*Daubert* motions.” (A “*Daubert* motion”—of which Respondents apparently contemplate more than one—refers to an MIL to exclude expert evidence based on *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), and its now-many progeny.) Respondents state that Complaint Counsel opposes raising the word limit to 5,000.

Additional Provision 16(b) states that MILs are “strongly discouraged”—not, as Respondents state in their Motion, simply “disfavored.” That is particularly so since “the court’s role as a ‘gatekeeper,’ pursuant to *Daubert*, to prevent expert testimony from unduly confusing or misleading a jury, has little application in a bench trial.” *In re McWane, Inc.* 2012 WL 3719035, at *3 (FTC Aug. 16, 2012) (citing authorities); *see also South Carolina State Conference of NAACP v. Alexander*, 2022 WL 4276713, at *2-3 (D. S.C. Sept. 15, 2022) (citing authorities).

The previously-set 750 word count limit reflects this fact. I decline to raise it.

Accordingly, Respondents’ Motion is **DENIED**.

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ORDERED:

Jay L. Himes

Jay L. Himes
Administrative Law Judge

Date: September 25, 2024