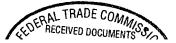
UNITED STATES OF AMERICA

Ť

7



ľ				
· /				
, <b>t</b>			1	
1				
_				
		_		
, <u>(</u>				
ı,				
1 X				
<u>.</u>				
الم <u></u>	<b></b>		<b>x</b>	
÷				
;	To the Metter - C			
	In the Matter of	:	DOCKET NO. 9318	
	BASIC RESEARCH, L.L.C., et al.,	:	Public Document	
		•	T UDITE DOCUMENT	

	4. Pursuant to the Court's 9 August 2005 Order, Dr. Mowrey is required to produce
	"all documents that relate to his capacity as an expert witness, including communications with
	his attorney, the other Respondents, and the other Respondents' attorneys." Order at 3. The
<u> </u>	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
<b>₽</b> •	<u>م</u> ــــــــــــــــــــــــــــــــــــ
·	
1	
÷	
ę	
; <b>************************************</b>	
*	
\ <u></u>	
- <u>.</u>	8
	· · · · ·
 	·
¥	aimed at compelling production of documents from Dr. Mowrey that do not relate to his capacity
t	
~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~	
	as an expert or to the formation of his expert opinion in this case, Complaint Counsel's motion is
	DENIED IN PART." Id. The Court then directed Dr. Mowrey to produce documents within five
	(5) business days after 9 August 2005 i.e., on or before 16 August 2005.

5. On 16 August 2005, Dr. Mowrey produced to Complaint Counsel what Dr.

	6	In 16 August 2005 letter to Complaint Counsel I stated that "Iwlith respect to
- 		
· · · · · · · · · · · · · · · · · · ·		
	, ,, ,	
		D
•		
\ <u>-</u>		
	•	
2 2 2 2 2 2 2		
2 2 3 2 1 2		
r		
·		
1		

 $\frac{1}{2}$ 

	documents which Dr. Manrow had delivered to meteroduced to Complaint Counsel 2. Dr.	
,		
) <u>k</u> <del></del>		
بر میں		
··		
		]
-		
ii		
		1
		ł
•		
A 2		
1		1
1.		
À la		
7		
<b>1</b>		
មា		
<u>11</u>		
r	· · · · · · · · · · · · · · · · · · ·	

printed out and provided to me all of the "drafts." See, e.g., Mowrey Supp. Dec. I then had the

:--intolro. a mistake which Limmediately brought to Complaint Counsel's attention upo a a a mt ma

	nty diamond in Dr_	Anterew arenort Comple	int Councel cancede	in their motion that n	ntar
£ <u></u>					
1					
<b>1</b>					
•	···				
	۱ ۲۰۰۰ ۲۰۰۰ ۱	<u>1</u> 1°	o		L
<u>x</u>					
	Ain				
Fra					
Ţ					
				۱ <u>ــــــــــــــــــــــــــــــــــــ</u>	
•	·				
l	·				
4					
] 					
	۱ <u> </u>				
•					
1					

scientific study of any kind, and with one potential fact witness who is an author of a scientific

the persons mentioned in the document are not authors of any of the scientific studies referenced

in Dr. Mowrey's expert report, this document is not subject to production.

	The gran and and a second	ente ano a maias of amaile on	August
4 <u>.21</u>			
,#2 3			
تر حک			
9 · · · · · · · · · · · · · · · · · · ·			
•			
		i.	
<u>.                                    </u>			

2004 between Ms. Fobbs and me (and copied to Dr. Mowrey). The emails relate solely to efforts to arrange a meeting between Dr. Mowrey and the Corporate Respondent's prior counsel, and contain no substantive information. The meeting which we were trying to arrange in early August 2004 did not occur.

15. <u>Document Bates Nos. 54-55</u>. Dr. Mowrey addresses this document in his declaration.

16. <u>Documents Bates Nos. 84, 86-87</u>. These documents are a series of three emails

115 and 1 Jan Com Man Balan De Marmar 20 Contambor 2001 (from Dr

1

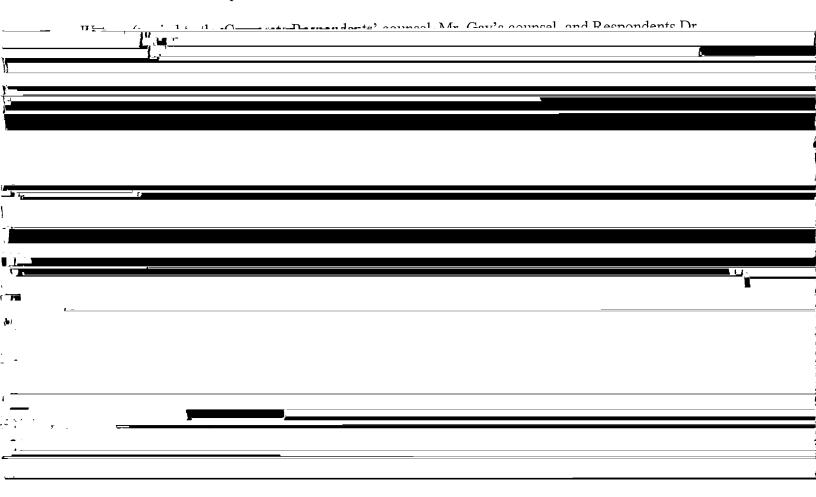
	1 - 11. 101 104 (11 - NA TO 11 J.A. 111 101 104 (1-) NA TOLLO 40 I Loothou Coully (with
A	
L	
10°	
	<u>k</u>
-	
· _	
١	
· · · ·	
, 	
<b>*</b> .	
7	
· · · · · · · · · · · · · · · · · · ·	
- <b>X</b>	

the Corporate Pospondants' Compliance Department) dated 1.1/01/04 (v) Me Sprik to Dr

]	
. <b>.</b>	
- '4 E.	
, 1,	
r <sup>a</sup> n	

contain absolutely no substantive information concern the Colker/Kalman paper, or concerning Dr. Colker and Mr. Kalman. Furthermore, the "Colker/Kalman paper" referenced in these two emails has been produced to Complaint Counsel on at least two (2) separate occasions, long before the Court entered the 9 August 2005 Order.

23. With respect to the 22 November 2004 email from me to Ms. Fobbs and Mr.



Mowrey & Friedlander) which is part of Document Bates No. 168, that document relates solely to Respondents' litigation strategy and potential discovery Respondents were considering undertaking. The document was not sent to Dr. Mowrey as an expert, and we were not

consulting with Dr. Mourrey as an expert our litigation and discovery strategy. Rather.

, **L**\_\_\_\_

Instead, C	Complaint	Counsel a	and Dr.	Heymsfield	did not	produce	those	documents un	til 14
------------	-----------	-----------	---------	------------	---------	---------	-------	--------------	--------

December 2004 (they were received by me on 16 December 2004), and then they were produced

·	Harmafield offer he had
jf≪	
۲.	
,- · <u></u>	
1	
[]#	
1	
<b>s</b> .	
T P	
2	
ł.	
<u>N</u>	
<u> </u>	
(- <b></b>	
l 	
1	
•	1
· •	
·. ·	F
-	
	produced his report, but had failed to produce the majority of the documents he later produced. <sup>3</sup>
s	1 Du TT Li Li Li
i=	
a, L	
2	
31	
21 /# 1	
,	
м	
Į	
<b>.</b>	

I HEREBY CERTIFY that a true and correct copy of the foregoing DECLARATION OF Press provided to the following as follows: (1) on  $\frac{1}{5}$  September 2005, the original and two (2) paper copies sent via Federal Express overnight delivery and on  $\mathcal{K}$  September 2005 one (1) electronic copy via email attachment - - - -

## CERTIFICATE OF SERVICE