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

witnesses they seek to call are appropriate and that they should not be prevented from calling them at trial.

III.

[redacted]

[redacted]

additional witness on behalf of DermTech International. To avoid any undue prejudice, Complaint Counsel shall have ten business days or a date mutually agreed upon to conduct the deposition of Lehman.

[redacted]

the challenged products. Complaint Counsel asserts that any testimony given by these witnesses would necessarily elicit scientific expert opinion as to the competence and reliability of any of the studies or other substantiation provided by Respondents for their claims made in promotional

Respondents state that they intend to elicit fact testimony, not opinion testimony, from these witnesses. Respondents further assert scientists may testify concerning the facts and circumstances of tests and studies in which they participated, without offering opinion testimony

allowed to provide expert opinions." Scheduling Order at 6; *see also* Fed. R. Evid. 701. Further, "[w]itnesses may not testify to a matter unless evidence is introduced sufficient to support a

Commission staff most likely knowledgeable about those standards."

In numerous previous orders entered in this case, Respondents have been instructed that the probe they seek into the mental processes of the FTC Commissioners and staff is inappropriate. Those standards will not be repeated. Complaint Counsel's motion to strike is **GRANTED**. Accordingly, Respondents may not elicit testimony from the following individuals on Respondents' Final Witness list, each of whom is a current or former FTC official or staff: