

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

- - -

UNITED THERAPEUTICS : C.A. No.
CORPORATION, : 20-755-RGA
:
Plaintiff, :
:
vs. :
:
LIQUIDIA TECHNOLOGIES, INC.:
:
Defendant. :

- - -

THURSDAY, APRIL 15, 2021

- - -

Remote Videotape Zoom Deposition of
ROBERT R. RUFFOLO, Ph.D., taken pursuant
to Notice, commencing at approximately
9:03 a.m., on the above date, before Rose A.
Tamburri, RPR, CM, CCR, CRR, USCRA Speed and
Accuracy Champion and Notary Public.

- - -

VERITEXT LEGAL SOLUTIONS
MID-ATLANTIC REGION
1801 Market Street, Suite 1800
Philadelphia, Pennsylvania 19103



Page 2	<p>1 APPEARANCES:</p> <p>2</p> <p>3 BOIES, SCHILLER, FLEXNER LLP</p> <p>4 BY: BILL WARD, ESQUIRE</p> <p>5 401 Wilshire Boulevard, Suite 850</p> <p>6 Santa Monica, California 90401</p> <p>7 (310) 752-2402</p> <p>8 bward@bsflp.com</p> <p>9 (Via Remote Zoom)</p> <p>10 Representing the Plaintiff and</p> <p>11 The Witness</p> <p>12</p> <p>13</p> <p>14 COOLEY LLP</p> <p>15 BY: JONATHAN DAVIES, ESQUIRE</p> <p>16 1299 Pennsylvania Avenue NW, Suite 700</p> <p>17 Washington, DC 20004</p> <p>18 (202) 776-2049</p> <p>19 jdaviesw@cooley.com</p> <p>20 (Via Remote Zoom)</p> <p>21 Representing the Defendant</p> <p>22</p> <p>23</p> <p>24 ALSO PRESENT:</p> <p>25</p> <p>26 ADAM W. BURROWBRIDGE, ESQUIRE</p> <p>27</p> <p>28 DOUGLAS H. CARSTEN, ESQUIRE</p> <p>29</p> <p>30 DOUGLAS W. CHEEK, ESQUIRE</p> <p>31</p> <p>32 ANDREW SMITH, Video Concierge</p> <p>33</p> <p>34 ORSON BRAITHWAITE, Videographer</p>	Page 4
Page 3	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	Page 5

2 (Pages 2 - 5)

Veritext Legal Solutions
 215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830



Page 6	Page 8
<p>1 REQUEST FOR PRODUCTION OF DOCUMENTS</p> <p>2</p> <p>3 Page Line Description</p> <p>4</p> <p>5 None</p> <p>6</p> <p>7</p> <p>8</p> <p>9 STIPULATIONS</p> <p>10</p> <p>11 Page Line</p> <p>12</p> <p>13 None</p> <p>14</p> <p>15</p> <p>16 PREVIOUSLY MARKED EXHIBITS REFERRED TO</p> <p>17</p> <p>18 EXHIBIT NUMBER PAGE REFERENCED</p> <p>19</p> <p>20 None</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>1 Therapeutics Corporation versus Liquidia</p> <p>2 Technologies, Inc., filed in the United States</p> <p>3 District Court for the District of Delaware,</p> <p>4 Case No. 20-755-RGA.</p> <p>5 My name is Orson Braithwaite from</p> <p>6 the firm Veritext Solutions, and I'm the</p> <p>7 videographer. The court reporter is Rose</p> <p>8 Tamburri from the firm Veritext Legal</p> <p>9 Solutions.</p> <p>10 Counsel will now state their</p> <p>11 appearances and affiliations for the record.</p> <p>12 MR. DAVIES: Jonathan Davies from</p> <p>13 Cooley LLP for defendant, Liquidia.</p> <p>14 MR. WARD: Bill Ward of Boies,</p> <p>15 Schiller, Flexner for the plaintiff, United</p> <p>16 Therapeutics, and the witness. And here in</p> <p>17 the room with me is Adam Burrowbridge of</p> <p>18 Wilson Sonsini.</p> <p>19 MR. CARSTEN: And Doug Carsten of</p> <p>20 McDermott, Will & Emery, also for plaintiff.</p> <p>21 THE VIDEOGRAPHER: Thank you.</p> <p>22 Will the court reporter please swear in the</p> <p>23 witness.</p> <p>24 - - -</p>
Page 7	Page 9
<p>1 (Whereupon, the deposition</p> <p>2 commenced at 9:03 a.m.)</p> <p>3 - - -</p> <p>4 THE COURT REPORTER: The attorneys</p> <p>5 participating in this deposition acknowledge</p> <p>6 that I am not physically present in the</p> <p>7 deposition room, and that I will be reporting</p> <p>8 this deposition remotely.</p> <p>9 They further acknowledge that, in</p> <p>10 lieu of an oath administered in person, I will</p> <p>11 administer the oath remotely.</p> <p>12 The parties further agree that if</p> <p>13 the witness is testifying from a state where I</p> <p>14 am not a Notary, that the witness may be sworn</p> <p>15 in by an out-of-state Notary.</p> <p>16 If any party has an objection to</p> <p>17 this manner of reporting, please state it now.</p> <p>18 Hearing none, we can proceed.</p> <p>19 - - -</p> <p>20 THE VIDEOGRAPHER: Good morning.</p> <p>21 We are going on the record at</p> <p>22 9:03 a.m. on April 15th, 2021. This is Media</p> <p>23 Unit 1 of the remote recorded deposition of</p> <p>24 Dr. Robert R. Ruffolo, in the matter of United</p>	<p>1 ...ROBERT R. RUFFOLO, Ph.D., after</p> <p>2 having first been duly sworn and/or affirmed,</p> <p>3 was examined and testified as follows...</p> <p>4 - - -</p> <p>5 THE VIDEOGRAPHER: Please proceed.</p> <p>6 - - -</p> <p>7 EXAMINATION</p> <p>8 - - -</p> <p>9 BY MR. DAVIES:</p> <p>10 Q. Good morning.</p> <p>11 A. Good morning.</p> <p>12 Q. Could you please state your full</p> <p>13 name, Dr. Ruffolo.</p> <p>14 A. Yes. Robert Ruffolo, R-U-F-F-O-L-O.</p> <p>15 Q. Thanks very much.</p> <p>16 And have you been deposed before,</p> <p>17 Dr. Ruffolo?</p> <p>18 A. Yes, I have.</p> <p>19 Q. And can you tell me about how many</p> <p>20 times?</p> <p>21 A. Maybe eight to ten, maybe a little</p> <p>22 bit more.</p> <p>23 Q. So you have some familiarity with the</p> <p>24 -- the process. As you know, we're doing this</p>

<p style="text-align: right;">Page 10</p> <p>1 remotely today, but regardless, you understand 2 that the testimony you're providing today is 3 still under oath; correct? 4 A. Yes, I do. 5 Q. Okay. 6 Today's deposition is being 7 conducted over Zoom and you are being recorded 8 over Zoom. It's our understanding that you 9 were provided a training with regard to 10 today's deposition and the use of Exhibit 11 Share with regards to today's deposition by 12 Veritext; is that correct? 13 MR. WARD: We -- Jonathan, this is 14 the subject of the email exchange. We have 15 your box of exhibits, and so I'm prepared to 16 give those exhibits to the witness so he can 17 handle them in hard copy. 18 MR. DAVIES: Understood, Bill, I 19 -- I just wanted to confirm whether or not Dr. 20 Ruffolo had received any training from 21 Veritext regarding the use of Exhibit Share? 22 THE WITNESS: No, I haven't. 23 MR. DAVIES: Okay. 24 THE WITNESS: I think it was</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. Okay. 2 And for the benefit of the court 3 reporter, and even though it's being recorded, 4 I need you to provide verbal responses, rather 5 than, for example, a head nod or a shoulder 6 shrug. 7 Is that agreeable? 8 A. Yes. 9 Q. Okay. 10 And during the deposition today, 11 if you feel the need to take a break, I'll try 12 and take a break, I typically take a break 13 around every hour, sometimes a little longer, 14 sometimes maybe a little less, but if, at any 15 point during the deposition, you need to take 16 a break, let me know. And the only thing that 17 I'd ask is if there's a pending question, that 18 you respond to the pending question and then 19 we'll go off the record. 20 Fair enough? 21 A. I understand. 22 Q. Okay. Great. 23 So is there any reason today why 24 you can't provide truthful and accurate</p>
<p style="text-align: right;">Page 11</p> <p>1 offered, but I -- I don't understand. 2 MR. DAVIES: Okay. That's fine. 3 BY MR. DAVIES: 4 Q. And as your -- as your counsel 5 indicated, we did provide hard copies of all 6 the exhibits that we may use today. There may 7 be additional ones that come up, and counsel 8 has agreed to assist us with printing out 9 additional exhibits if we need to enter those. 10 Is that your understanding, Dr. 11 Ruffolo? 12 A. Yes, it is, and thank you. 13 Q. Okay. 14 MR. WARD: We'll be happy to print 15 those, Jonathan. 16 MR. DAVIES: Great. Thanks very 17 much, Bill. 18 BY MR. DAVIES: 19 Q. During the deposition today, your -- 20 your counsel may object from time to time. 21 You understand that you still need to provide 22 a response to my questions unless your counsel 23 instructs you not to answer; is that correct? 24 A. Yes.</p>	<p style="text-align: right;">Page 13</p> <p>1 testimony? 2 A. No. 3 Q. Okay. Great. 4 So you'll have to bear with me a 5 little. 6 MR. DAVIES: I'm going to enter as 7 Exhibit 1, and, Bill, this should be Tab 1 in 8 your box. 9 MR. WARD: Okay. I have not 10 opened it yet. 11 MR. DAVIES: Okay. 12 MR. WARD: Do you want me to open 13 it or, I'm happy to do whatever you want. 14 MR. DAVIES: Yeah, go ahead and 15 open the -- the box, Bill; that would be 16 great. 17 MR. WARD: Okay. If you don't 18 need me on camera, I can just do it right 19 here. 20 MR. DAVIES: No, I -- I trust that 21 you can open -- open the box. 22 MR. WARD: All rightee. 23 MR. DAVIES: Just let me know once 24 you have it open. And then once you have it</p>

4 (Pages 10 - 13)

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

<p style="text-align: right;">Page 14</p> <p>1 open, if you could pass Dr. Ruffolo the 2 document at Tab 1. 3 MR. WARD: Okay. 4 (Brief pause.) 5 MR. WARD: Okay. 6 And if it's all right with you, 7 Jonathan, just to make sure that the record 8 doesn't disconnect between Exhibit Share and 9 what we have locally, I'll go ahead and 10 identify the document as I hand it to Dr. 11 Ruffolo? 12 MR. DAVIES: I -- I -- I can go 13 ahead and identify it -- 14 MR. WARD: Okay. 15 MR. DAVIES: -- as we can go on. 16 (Whereupon, a document was marked, 17 for identification purposes, as Exhibit 0001.) 18 BY MR. DAVIES: 19 Q. So, Dr. Ruffolo, you should be passed 20 Exhibit 1, which is Defendant's Amended Notice 21 of Deposition of Robert R. Ruffolo in this 22 case, and it's dated March 29, 2021. 23 Is that the document you have in 24 front of you?</p>	<p style="text-align: right;">Page 16</p> <p>1 A. About the same. 2 Q. Okay. 3 Other than Mr. Ward, Mr. 4 Burrowbridge and Mr. Jackson, was anyone else 5 present for your preparation for your 6 deposition testimony today? 7 A. Mr. Carsten was present for very 8 small portions, in and out. 9 Q. Anyone else other than Mr. Carsten? 10 A. No. 11 Q. Was Mr. Carsten present yesterday? 12 A. I think for a short period at -- at 13 the end maybe. 14 Q. Okay. 15 And was Mr. Carsten also present 16 the day before yesterday? 17 A. The same, for a short period at the 18 end. 19 Q. Okay. 20 You mentioned that during that 21 time, you reviewed your previous reports. Did 22 you intend to mean the two reports that you 23 have submitted in the current case? 24 MR. WARD: Objection, misstates</p>
<p style="text-align: right;">Page 15</p> <p>1 A. It -- it looks like it, yes. 2 Q. Okay. 3 And you understand that you are 4 here today pursuant to this Notice to provide 5 testimony regarding the two declarations 6 regarding claim construction that you 7 submitted in this case? 8 A. Yes, I do. 9 Q. Great. 10 With respect to today's 11 deposition, what did you do to prepare for 12 today's deposition? 13 A. I reviewed my previous reports and 14 the background information for those reports. 15 I reviewed the patents and the cited material. 16 And then I worked with Mr. Ward, 17 Mr. Burrowbridge and Mr. Jackson going over 18 some of the material yesterday and the day 19 before. 20 Q. And about how long yesterday did you 21 spend preparing? 22 A. Maybe eight hours, maybe nine. 23 Q. And the day before yesterday, how 24 long did you spend preparing?</p>	<p style="text-align: right;">Page 17</p> <p>1 the testimony. And we're not going to get 2 into what Dr. Ruffolo reviewed in his 3 preparation with attorneys. 4 MR. DAVIES: That's -- okay. I 5 was just asking because Dr. Ruffolo indicated 6 he had reviewed previous reports. 7 BY MR. DAVIES: 8 Q. And I was just asking if you can 9 recall if those -- two of those reports were 10 those that you authored in this case? 11 MR. WARD: Objection, misstates 12 testimony. 13 You can answer. 14 THE WITNESS: Oh, I -- I can 15 answer. 16 Yes, so they were my two reports, 17 the first and -- and the second -- 18 MR. DAVIES: Okay. 19 THE WITNESS: Supplemental was the 20 second one. 21 BY MR. DAVIES: 22 Q. Do you recall, Dr. Ruffolo, if you 23 reviewed any other declarations that you had 24 submitted in other proceedings outside of the</p>

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.