

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

NATERA, INC., )  
 )  
 Plaintiff, )  
 )  
 v. ) C.A. No. 20-125 (GBW)  
 ) (CONSOLIDATED)  
 ARCHERDX, INC., ARCHERDX, LLC and )  
 INVITAE CORP., )  
 )  
 Defendants. )

**[PROPOSED] AMENDED SCHEDULING ORDER**

This \_\_\_\_ day of \_\_\_\_\_, 2022, the Court having ordered the parties to provide a revised form of scheduling order for the Court’s consideration (D.I. 462, 484), and the parties having determined after discussion that the matter cannot be resolved at this juncture by settlement, voluntary mediation, or binding arbitration;

IT IS HEREBY ORDERED that:

1. Discovery Matters and Disputes Relating to Protective Orders.

(a) Any discovery motion filed without first complying with the following procedures will be denied without prejudice to renew pursuant to these procedures,

(b) Should counsel find, after good faith efforts – including verbal communications among Delaware and Lead Counsel for all parties to the dispute - that they are unable to resolve a discovery matter or a dispute relating to a protective order, the parties involved in the discovery matter or protective order dispute shall submit a joint letter in substantially the following form:

Dear Judge Williams:

The parties in the above-referenced matter write to request the scheduling of a discovery teleconference.

The following attorneys, including at least one Delaware Counsel and at least one Lead Counsel per party, participated in a verbal meet and-confer (in person and/or by telephone) on the following date(s): \_\_\_\_\_

Delaware Counsel: \_\_\_\_\_

Lead Counsel: \_\_\_\_\_

The disputes requiring judicial attention are listed below:

[provide here a non-argumentative list of disputes requiring judicial attention]

(c) On a date to be set by separate order, generally not less than forty-eight (48) hours prior to the conference, the party seeking relief shall file with the Court a letter, not to exceed three (3) pages, outlining the issues in dispute and its position on those issues. On a date to be set by separate order, but generally not less than twenty-four (24) hours prior to the conference, any party opposing the application for relief may file a letter, not to exceed three (3) pages, outlining that party's reasons for its opposition.

(d) Each party shall submit two (2) courtesy copies of its discovery letter and any attachments.

(e) Should the Court find further briefing necessary upon conclusion of the telephone conference, the Court will order it. Alternatively, the Court may choose to resolve the dispute prior to the telephone conference and will, in that event, cancel the conference.

2. Motions to Amend.

(a) Any motion to amend (including a motion for leave to amend) a pleading shall NOT be accompanied by an opening brief but shall, instead, be accompanied by a letter, not

to exceed three (3) pages, describing the basis for the requested relief, and shall attach the proposed amended pleading as well as a “blackline” comparison to the prior pleading.

(b) Within seven (7) days after the filing of a motion in compliance with this Order, any party opposing such a motion shall file a responsive letter, not to exceed five (5) pages.

(c) Within three (3) days thereafter, the moving party may file a reply letter, not to exceed two (2) pages, and, by this same date, the parties shall file a letter requesting a teleconference to address the motion to amend.

3. Motions to Strike.

(a) Any motion to strike any pleading or other document shall NOT be accompanied by an opening brief but shall, instead, be accompanied by a letter, not to exceed three (3) pages, describing the basis for the requested relief, and shall attach the document to be stricken.

(b) Within seven (7) days after the filing of a motion in compliance with this Order, any party opposing such a motion shall file a responsive letter, not to exceed five (5) pages.

(c) Within three (3) days thereafter, the moving party may file a reply letter, not to exceed two (2) pages, and, by this same date, the parties shall file a letter requesting a teleconference to address the motion to strike.

4. Case Dispositive Motions.

(a) All case dispositive motions were filed and briefing was completed under Judge Stark’s procedure as set forth under the prior Scheduling Order and amendments thereto. D.I. 60, 242. Pursuant to this Court’s Order (D.I. 463), by **October 17, 2022**, the parties will each submit a one-page letter ranking the grounds for summary judgment raised in its motions for summary judgment in whatever order it chooses, but with the understanding that once the Court

denies summary judgment as to any single ground raised in the motion, the Court will not address any summary judgment grounds that were ranked after that ground.

(b) Concise Statement of Facts Requirement. For each separate motion/ground for summary judgment, the moving party shall file no later than **October 18, 2022** a separate concise statement, not to exceed six (6) pages, which details each material fact which the moving party contends is essential for the Court's resolution of the summary judgment motion (not the entire case) and as to which the moving party contends there is no genuine issue to be tried. Each fact shall be set forth in a separate numbered paragraph and shall be supported by specific citation(s) to the record.

Any party opposing the motion shall file no later than **October 25, 2022** a response to the moving party's concise statement, not to exceed six (6) pages, which admits or disputes the facts set forth in the moving party's concise statement on a paragraph-by-paragraph basis. To the extent a fact is disputed, the basis of the dispute shall be supported by specific citation(s) to the record. Failure to respond to a fact presented in the moving party's concise statement of facts shall indicate that fact is not in dispute for purposes of summary judgment. The party opposing the motion may also include with its opposing papers a separate concise statement, not to exceed four (4) pages, which sets forth material facts as to which the opposing party contends there is a genuine issue to be tried. Each fact asserted by the opposing party shall also be set forth in a separate numbered paragraph and shall be supported by specific citation(s) to the record.

No later than **October 31, 2022**, the moving party shall file a response to the opposing party's concise statement of facts, not to exceed four (4) pages, on a paragraph-by-paragraph basis. Failure to respond to a fact presented in the opposing party's concise statement of facts shall indicate that fact remains in dispute for purposes of summary judgment.

(c) Ranking of Summary Judgment Motions. Pursuant to this Court's Order (D.I. 463), by **October 17, 2022**, the parties will each submit a one-page letter ranking the grounds for summary judgment raised in its motions for summary judgment in whatever order it chooses. The Court will review the party's summary judgment motions in the order designated by the party. If the Court decides to deny a motion filed by the party, barring exceptional reasons determined *sua sponte* by the Court, the Court will not review any lower ranked summary motions filed by the party.

(d) Oral Argument. Oral argument on the pending summary judgment and *Daubert* motions shall be held on **January 24, 2023** at 10:00 a.m. in Courtroom 6B.

5. Applications by Motion. Except as otherwise specified herein, any application to the Court shall be by written motion. Any non-dispositive motion should contain the statement required by Local Rule 7.1.1.

6. Papers Filed Under Seal. In accordance with section G of the Revised Administrative Procedures Governing Filing and Service by Electronic Means, a redacted version of any sealed document shall be filed electronically within seven (7) days of the filing of the sealed document.

7. Courtesy Copies. The parties shall provide to the Court two (2) courtesy copies of filings (i.e., briefs, appendices, exhibits, declarations, affidavits etc.). Courtesy copies of appendices and exhibits should include hard tabs. This provision also applies to papers filed under seal.

8. Motions in Limine. Motions *in limine* shall not be separately filed. All *in limine* requests and responses thereto shall be set forth in the proposed pretrial order. Each SIDE shall be limited to three (3) *in limine* requests, unless otherwise permitted by the Court. The *in limine*

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