

Natera that Respondents intend to introduce 16 documents,¹ including 15 of the Confidential Documents, into evidence at the administrative trial in this Action.² See Email from Benjamin Atlas dated July 26, 2021 (attached as Exhibit B).³

The Confidential Documents all contain sensitive business information and trade secrets of Natera such that if they were to become part of the public record Natera would be significantly harmed in its ability to compete in the diagnostics industry. Accordingly, Natera submits this Motion requesting permanent *in camera* treatment of the 14 non-deposition transcript Confidential Documents in their entirety and permanent *in camera* treatment of the specified deposition testimony of Natera executives included in the four Confidential Documents that are deposition transcripts. In support of this Motion, Natera submits the Affidavit of John Fesko (“Fesko Declaration”), Natera’s Chief Business Officer, attached as Exhibit C. On August 5, 2021, Counsel for Natera notified counsel for the parties in the Action that it would be seeking permanent *in camera* treatment of the Confidential Documents. Neither counsel for the FTC nor

¹ Counsel for Illumina further notified Natera that it is reserving its right to add the deposition transcript of Steve Chapman, CEO of Natera, to its potential trial exhibit list. See Exhibit B. Natera likewise reserves its right to request *in camera* treatment for some or all of this testimony if and when counsel for Respondents notify Natera that they intend to introduce any of Mr. Chapman’s deposition testimony into evidence at the administrative trial.

² As shown in the list of Confidential Documents provided in Part I of this Motion, four Confidential Documents are included on both the FTC and Respondents’ potential trial exhibit lists (and, accordingly, the total number of Confidential Exhibits adds up to less than the sum of the number of Confidential Documents included on the respective lists). See also Exhibits A and B.

³ On July 30, 2021, the FTC further notified Natera that Respondents intend to introduce four additional documents—not included among the Confidential Documents for which Natera respectfully moves this Court to afford *in camera* treatment herein—relating to communications involving Natera into evidence at the administrative trial in this Action.

for Respondents indicated whether they would oppose this Motion prior to its filing.

I. The Documents for Which Protection Is Sought

Natera seeks permanent *in camera* treatment for the Confidential Documents listed in the table below, which are the 14 non-deposition transcripts, in their entirety; copies of these documents are attached under seal as Exhibit D.

Included on the FTC and Respondents' Potential Trial Exhibit Lists				
Exhibit No.⁴	Document Title/Description	Date	Beginning Bates No.	Ending Bates No.
PX8532	Natera Responses to EC RFI	3/19/21	FTC-V-ILLUMGRAIL-NAT-00000001	FTC-V-ILLUMGRAIL-NAT-00000011
PX8379	Supply Agreement between Illumina and Natera	8/16/13	NAT-FTC_00000641	NAT-FTC_00000690
Included on the FTC's Potential Trial Exhibit List Only				
PX8630	Email from Steve Chapman to Daniel Rabinowitz, Ruben Gutierrez, John Fesko et al. re: Open Offer of Assurances from Illumina	1/25/21	NAT-FTC_00010328	NAT-FTC_00010329
Included on Respondents' Potential Trial Exhibit List Only				
N/A	Natera slide deck titled "Novel Trial Design Strategies with a Personalized ctDNA Assay"	5/5/2020	FTC-V-ILLUMGRAIL-NAT-00007346	FTC-V-ILLUMGRAIL-NAT-00007377
N/A	Natera March	3/13/2020	FTC-V-	FTC-V-

⁴ Counsel for Respondents did not provide the exhibit numbers for those Natera materials they intend to offer and, accordingly, only the Bates range for such documents is provided here. See Exhibit B.

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	2020 Board of Directors slide deck		ILLUMGRAIL-NAT-00008081	ILLUMGRAIL-NAT-00008135
N/A	Natera November 2020 Board of Directors slide deck	11/17/2020	FTC-V-ILLUMGRAIL-NAT-00008156	FTC-V-ILLUMGRAIL-NAT-00008275
N/A	Natera 2021 Annual Board & Strategic Planning Meeting slide deck	1/29/2021	FTC-V-ILLUMGRAIL-NAT-00008453	FTC-V-ILLUMGRAIL-NAT-00008545
N/A	Natera March 2021 Board of Directors slide deck	3/16/2021	FTC-V-ILLUMGRAIL-NAT-00008561	FTC-V-ILLUMGRAIL-NAT-00008699
N/A	Natera slide deck titled "Competitive update"	1/2021	FTC-V-ILLUMGRAIL-NAT-00012371	FTC-V-ILLUMGRAIL-NAT-00012393
N/A	Natera January 2014 Board of Directors slide deck	1/16/2014	FTC-V-ILLUMGRAIL-NAT-00015761	FTC-V-ILLUMGRAIL-NAT-00015817
N/A	Natera slide deck titled "Initial Public Offering Roadshow Presentation"	N/A	FTC-V-ILLUMGRAIL-NAT-00024380	FTC-V-ILLUMGRAIL-NAT-00024413
N/A	Signatera test device description	N/A	NAT-FTC_00000003	NAT-FTC_00000009
N/A	Natera slide deck titled "Natera Signatera Workflow and PCR Schematics"	1/21/2020	NAT-FTC_00000525	NAT-FTC_00000533
N/A	Natera slide deck titled "Market Share and Competitor Update"	5/24/2017	NAT-FTC_00006273	NAT-FTC_00006284

Natera seeks permanent *in camera* treatment for the Confidential Documents listed in the table below, which are the deposition and Investigational Hearing transcripts of Messrs. Fesko and Rabinowitz, for which Natera requests *in camera* treatment with respect to the portions of the testimony designated; copies of these documents are attached under seal as Exhibit E.

Included on the FTC and Respondents' Potential Trial Exhibit Lists			
Exhibit No.	Document Title/Description	Date	Lines/Pages for which <i>in camera</i> treatment is requested
PX7111	Depo Transcript: John Fesko	6/8/2021	15:21-16:1; 18:19-19:4; 20:7-10; 20:13-30:5; 30:7-34:21; 35:1-20; 39:17-40:3; 40:8-10; 40:16-22; 41:6-16; 42:3-44:22; 46:16-22; 47:7-20; 48:1-50:1; 51:4-20; 52:3-54:17; 55:18-56:6; 56:20-57:19; 57:22-58:4; 59:5-60:20; 61:21; 62:4-66:14; 67:7-78:20; 79:3-81:13; 82:22-83:7; 84:10-102:14; 114:4-116:6; 119:12-15; 119:22-120:15; 123:11-124:19; 131:12-132:17; 133:5-134:3; 134:22-136:5; 136:11-143:1; 144:21-146:6; 147:8-150:3; 150:12-152:14; 156:11-165:8; 166:4-174:14; 177:4-188:21; 191:7-207:15; 208:10-224:14; 225:8-229:20; 230:14-16; 231:1-255:5; 255:11-260:1 And PX7111-068 through PX7111-112 (the glossary; as it could be used to reconstruct the confidential testimony).
PX7113	Depo Transcript: Matthew Rabinowitz	6/10/2021	36:2- 37:2; 38:1-54:4; 56:9-21; 57:14-59:18; 60:2-66:9; 67:10-74:16; 75:6-11; 75:16-18; 76:1-77:7; 77:16-79:21; 80:4-82:15; 82:22-84:8; 84:12-88:5; 89:6-11; 89:19-94:13; 95:10-15; 96:4-100:8; 100:20-101:2; 101:19-109:14; 110:2-114:7; 114:19-115:2; 115:6-116:13; 117:1-123:4; 134:9-17; 138:4-140:9; 142:4-146:4; 147:17-149:9; 149:20-151:7; 152:10-15; 153:6-18; 156:1-3; 156:16-157:4; 159:11-160:5; 160:14-22; 161:18-162:12; 163:10-164:14;

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			<p>165:18; 166:11-171:22; 172:6-173:22; 174:8-176:2; 177:8-9; 178:16-179:4; 179:6-18; 180:13-182:7; 182:18-183:8; 183:14-187:19; 188:21-189:11; 189:17-193:15; 194:9-198:18; 198:20-205:10; 206:13-208:13; 209:12-215:2; 216:22-217:17; 217:22-218:9; 218:11-221:3; 223:11; 225:22-231:11; 233:8-262:16; 263:5-265:16; 266:5-283:22; 285:21-286:7; 286:15-289:19; 290:5-297:5; 297:15-298:3; 300:6-303:18</p> <p>And PX7113-311 through PX7113-369 (the glossary as it could be used to reconstruct the confidential testimony).</p>
Included on the FTC's Potential Trial Exhibit List Only			
PX7053	IH Transcript: John Fesko	3/3/2021	<p>19:6-15; 19:19-22; 20:7-10; 22:17-23; 24:4-5; 24:13-18; 25:1-3; 25:12-26:7; 28:7-8; 31:6-10; 34:15-35:2; 35:15-37:15; 38:1-2; 38:11-13; 39:22-41:17; 42:4-45:22; 46:18-51:5; 55:4-63:16; 64:8-69:14; 69:17-70:4; 70:9-72:10; 72:24-81:1; 81:16-86:15; 88:4-89:16; 89:21-91:25; 92:12-96:1; 96:11-98:20; 99:2-100:23</p> <p>And PX7053-028 through PX7053-042 (the glossary; as it could be used to reconstruct the confidential testimony).</p>
PX7054	IH Transcript: Matthew Rabinowitz	3/3/2021	<p>9:4-12;12:19-22; 17:20-18:5; 18:7-21; 25:17-23; 28:7-18; 30:20-21; 38:22-39:15; 39:20-46:6; 47:22-50:4; 51:2-24; 52:1-53:1; 53:21-69:5; 69:12-74:11; 76:6-9; 76:19-94:19; 97:16-119:6</p> <p>And PX7054-033 through PX7053-050 (the glossary; as it could be used to reconstruct the confidential testimony).</p>

II. The Confidential Documents Contain Secret and Material Business Information such that Disclosure Would Result in Serious Injury to Natera

In camera treatment of material offered into evidence is appropriate where its “public disclosure will likely result in a clearly defined, serious injury to the person, partnership or corporation requesting” such treatment. 16 C.F.R. § 3.45(b). *In camera* treatment is appropriate with respect to information that is secret and material to the business as the disclosure of such information would result in serious competitive injury. *See General Foods Corp.*, 95 F.T.C. 352, 355 (1980). *In camera* treatment is appropriate where the disclosure of the business information would result in the loss of significant business advantages, as that is a serious competitive injury. *See In re Dura Lube Corp.*, No. 9292, 1999 LEXIS 255, at *7 (F.T.C. Dec. 23 1999). This Court routinely recognizes that it is appropriate to afford secret and material business information *in camera* treatment in an endeavor “to protect confidential business information from unnecessary airing.” *In re H.P. Hood & Sons, Inc.*, 58 F.T.C. 1184, 1188 (1961).

Courts may consider the following factors when evaluating both the secrecy and materiality of the business information: “(1) the extent to which the information is known outside of the business; (2) the extent to which it is known by employees and others involved in the business; (3) the extent of measures taken to guard the secrecy of the information; (4) the value of the information to the business and its competitors; (5) the amount of effort or money expended in developing the information; and (6) the ease or difficulty with which the information could be acquired or duplicated by others.” *In re Bristol-Myers Co.*, 90 F.T.C. 455, 456-457 (1977). As set forth herein, and discussed in greater detail in the Fesko Declaration, each of these factors supports *in camera* treatment of the Confidential Documents.

With respect to the first three secrecy-related factors enumerated in *Bristol-Myers*, Natera has taken all reasonable steps to protect the confidential information contained in the

Confidential Documents, which were produced pursuant to a compulsory process and under the terms of the Protective Order in this Action. Counsel designated each of the Confidential Documents, including the transcripts, as “Confidential” pursuant to the Protective Order in this Action upon determining such a designation was appropriate based on the information contained therein. Accordingly, Natera, a non-party in this Action, provided such information to the FTC and Respondents on the basis of its understanding that the Confidential Documents would remain confidential and not be made public pursuant to the Protective Order entered in this Action. Furthermore, the competitively-sensitive information in the Confidential Documents is not known to competitors or the general public and remains confidential within Natera. *See* Fesko Declaration at ¶¶ 5-11. Even within Natera, these documents and the information therein is shared only with a small group of officers, directors, senior-level employees, and outside counsel of Natera who have reason to access the information to perform their roles and responsibilities. *Id.*

With respect to the last three materiality-related factors enumerated in *Bristol-Myers*, the information contained in the Confidential Documents is competitively-valuable with respect to Natera’s diagnostics business. Natera has invested significant resources into developing and commercializing cell-free DNA testing, particularly related to women’s health, oncology, and transplant. *Id.* at ¶ 3. The Confidential Documents include highly confidential, competitively-sensitive, and proprietary information concerning development and/or commercialization plans with respect to diagnostics products involving such technology. *Id.* at ¶¶ 5-11. The Confidential Documents include, for example, information relating to Natera’s sales, marketing, product, and other strategic initiatives; analyses of potential business relationships, including information relating to contract terms; and analyses of the diagnostics industry, including information

relating to product perceptions and preferences and complaints; financial analyses, including information relating to sales, costs, revenues, margins, and other key financial metrics, including projections; and documents containing information relating to product formulations, designs, and other trade secret information. *Id.*

In addition, the statements and information contained in the Confidential Documents regarding product development and business relationships, if made public, would result in the loss of significant business advantages. If this information is made public, competitors and other industry participants would discover Natera's test specifications, development plans and market strategies, negotiation tactics and contract terms, which would allow competitors to unfairly compete against Natera and/or undermine the advantages Natera has built on the basis of its substantial investments in the development and commercialization of its proprietary technologies and products. *Id.*

Finally, Natera's status as a non-party is relevant to the treatment of the Confidential Documents. This Court has held that "[t]here can be no question that the confidential records of businesses involved in Commission proceedings should be protected insofar as possible." *In re H.P. Hood & Sons*, 58 F.T.C. at 1186. This is particularly important with respect to a non-party, as a non-party deserves "special solicitude" in its request for *in camera* treatment for its confidential business information. *See In re Kaiser Aluminum & Chern. Corp.*, 103 F.T.C. 500, 500 (1984). Thus, Natera's non-party status also weighs in favor of this Court granting its request for the Confidential Documents to be afforded *in camera* treatment.

III. The Confidential Documents Contain Trade Secrets, which will Remain Sensitive Over Time, such that Permanent *In Camera* Treatment is Justified

The Confidential Documents contain highly-sensitive trade secret information, which "is likely to remain sensitive or become more sensitive with the passage of time" such that

permanent *in camera* treatment is appropriate. *In re Dura Lube Corp.*, 1999 LEXIS at *7-8. Indefinite *in camera* treatment is appropriate where the documents contain trade secret information such as “secret formulas, processes, other secret technical information, or information that is privileged.” *In re Altria Group, Inc.*, No. 9393, 2021 WL 2258745 (F.T.C. May 19, 2021) (citations omitted). As described in the Fesko Declaration, all of the Confidential Documents contain trade secret information and highly-sensitive business information such that *in camera* treatment should be afforded indefinitely. Fesko Declaration at ¶¶ 5-11. Further, the competitive significance of the highly-sensitive business information contained in these documents is unlikely to decrease over time and thus, indefinite protection from public disclosure is appropriate. *Id.*

IV. Conclusion

For the reasons set forth above and in the accompanying Fesko Declaration, Natera respectfully requests that this Court grant this Motion seeking permanent *in camera* treatment for the 14 Confidential Documents that are not deposition transcripts in their entirety and for the specified testimony within the 4 Confidential Documents that are deposition transcripts.

Dated: August 5, 2021
Washington, DC

Respectfully submitted,

/s/ JeanAnn Tabbaa

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Counsel for Non-Party Natera, Inc.

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

In the Matter of

**Illumina, Inc.,
a corporation,**

and

**GRAIL, Inc.
a corporation,**

Docket No. 9401

[PROPOSED] ORDER

Upon consideration of Non-Party Natera, Inc.’s Motion for *In Camera* Treatment, it is HEREBY ORDERED that the following documents are to be provided permanent *in camera* treatment from the date of this Order in their entirety:

Included on the FTC and Respondents’ Potential Trial Exhibit Lists				
Exhibit No.	Document Title/Description	Date	Beginning Bates No.	Ending Bates No.
PX8532	Natera Responses to EC RFI	3/19/21	FTC-V-ILLUMGRAIL-NAT-00000001	FTC-V-ILLUMGRAIL-NAT-00000011
PX8379	Supply Agreement between Illumina and Natera	8/16/13	NAT-FTC_00000641	NAT-FTC_00000690
Included on the FTC’s Potential Trial Exhibit List Only				
PX8630	Email from Steve Chapman to Daniel Rabinowitz, Ruben Gutierrez, John Fesko et al. re: Open Offer of Assurances from Illumina	1/25/21	NAT-FTC_00010328	NAT-FTC_00010329

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Included on Respondents' Potential Trial Exhibit List Only				
N/A	Natera slide deck titled "Novel Trial Design Strategies with a Personalized ctDNA Assay"	5/5/2020	FTC-V-ILLUMGRAIL-NAT-00007346	FTC-V-ILLUMGRAIL-NAT-00007377
N/A	Natera March 2020 Board of Directors slide deck	3/13/2020	FTC-V-ILLUMGRAIL-NAT-00008081	FTC-V-ILLUMGRAIL-NAT-00008135
N/A	Natera November 2020 Board of Directors slide deck	11/17/2020	FTC-V-ILLUMGRAIL-NAT-00008156	FTC-V-ILLUMGRAIL-NAT-00008275
N/A	Natera 2021 Annual Board & Strategic Planning Meeting slide deck	1/29/2021	FTC-V-ILLUMGRAIL-NAT-00008453	FTC-V-ILLUMGRAIL-NAT-00008545
N/A	Natera March 2021 Board of Directors slide deck	3/16/2021	FTC-V-ILLUMGRAIL-NAT-00008561	FTC-V-ILLUMGRAIL-NAT-00008699
N/A	Natera slide deck titled "Competitive update"	1/2021	FTC-V-ILLUMGRAIL-NAT-00012371	FTC-V-ILLUMGRAIL-NAT-00012393
N/A	Natera January 2014 Board of Directors slide deck	1/16/2014	FTC-V-ILLUMGRAIL-NAT-00015761	FTC-V-ILLUMGRAIL-NAT-00015817
N/A	Natera slide deck titled "Initial Public Offering Roadshow Presentation"	N/A	FTC-V-ILLUMGRAIL-NAT-00024380	FTC-V-ILLUMGRAIL-NAT-00024413
N/A	Signatera test device description	N/A	NAT-FTC_00000003	NAT-FTC_00000009
N/A	Natera slide deck titled "Natera Signatera Workflow and PCR Schematics"	1/21/2020	NAT-FTC_00000525	NAT-FTC_00000533

N/A	Natera slide deck titled "Market Share and Competitor Update"	5/24/2017	NAT-FTC_00006273	NAT-FTC_00006284
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It is FURTHER ORDERED that the following documents are to be provided permanent *in camera* treatment from the date of this Order with respect to the designated portions:

Included on the FTC and Respondents' Potential Trial Exhibit Lists			
Exhibit No.	Document Title/Description	Date	Lines/Pages for which <i>in camera</i> treatment is requested
PX7111	Depo Transcript: John Fesko	6/8/2021	15:21-16:1; 18:19-19:4; 20:7-10; 20:13-30:5; 30:7-34:21; 35:1-20; 39:17-40:3; 40:8-10; 40:16-22; 41:6-16; 42:3-44:22; 46:16-22; 47:7-20; 48:1-50:1; 51:4-20; 52:3-54:17; 55:18-56:6; 56:20-57:19; 57:22-58:4; 59:5-60:20; 61:21; 62:4-66:14; 67:7-78:20; 79:3-81:13; 82:22-83:7; 84:10-102:14; 114:4-116:6; 119:12-15; 119:22-120:15; 123:11-124:19; 131:12-132:17; 133:5-134:3; 134:22-136:5; 136:11-143:1; 144:21-146:6; 147:8-150:3; 150:12-152:14; 156:11-165:8; 166:4-174:14; 177:4-188:21; 191:7-207:15; 208:10-224:14; 225:8-229:20; 230:14-16; 231:1-255:5; 255:11-260:1 And PX7111-068 through PX7111-112 (the glossary; as it could be used to reconstruct the confidential testimony).
PX7113	Depo Transcript: Matthew Rabinowitz	6/10/2021	36:2- 37:2; 38:1-54:4; 56:9-21; 57:14-59:18; 60:2-66:9; 67:10-74:16; 75:6-11; 75:16-18; 76:1-77:7; 77:16-79:21; 80:4-82:15; 82:22-84:8; 84:12-88:5; 89:6-11; 89:19-94:13; 95:10-15; 96:4-100:8; 100:20-101:2; 101:19-109:14; 110:2-114:7; 114:19-115:2; 115:6-116:13; 117:1-123:4; 134:9-17; 138:4-140:9; 142:4-146:4; 147:17-

			<p>149:9; 149:20-151:7; 152:10-15; 153:6-18; 156:1-3; 156:16-157:4; 159:11-160:5; 160:14-22; 161:18-162:12; 163:10-164:14; 165:18; 166:11-171:22; 172:6-173:22; 174:8-176:2; 177:8-9; 178:16-179:4; 179:6-18; 180:13-182:7; 182:18-183:8; 183:14-187:19; 188:21-189:11; 189:17-193:15; 194:9-198:18; 198:20-205:10; 206:13-208:13; 209:12-215:2; 216:22-217:17; 217:22-218:9; 218:11-221:3; 223:11; 225:22-231:11; 233:8-262:16; 263:5-265:16; 266:5-283:22; 285:21-286:7; 286:15-289:19; 290:5-297:5; 297:15-298:3; 300:6-303:18</p> <p>And PX7113-311 through PX7113-369 (the glossary as it could be used to reconstruct the confidential testimony).</p>
Included on the FTC’s Potential Trial Exhibit List Only			
PX7053	IH Transcript: John Fesko	3/3/2021	<p>19:6-15; 19:19-22; 20:7-10; 22:17-23; 24:4-5; 24:13-18; 25:1-3; 25:12-26:7; 28:7-8; 31:6-10; 34:15-35:2; 35:15-37:15; 38:1-2; 38:11-13; 39:22-41:17; 42:4-45:22; 46:18-51:5; 55:4-63:16; 64:8-69:14; 69:17-70:4; 70:9-72:10; 72:24-81:1; 81:16-86:15; 88:4-89:16; 89:21-91:25; 92:12-96:1; 96:11-98:20; 99:2-100:23</p> <p>And PX7053-028 through PX7053-042 (the glossary; as it could be used to reconstruct the confidential testimony).</p>
PX7054	IH Transcript: Matthew Rabinowitz	3/3/2021	<p>9:4-12; 12:19-22; 17:20-18:5; 18:7-21; 25:17-23; 28:7-18; 30:20-21; 38:22-39:15; 39:20-46:6; 47:22-50:4; 51:2-24; 52:1-53:1; 53:21-69:5; 69:12-74:11; 76:6-9; 76:19-94:19; 97:16-119:6</p>

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			And PX7054-033 through PX7053-050 (the glossary; as it could be used to reconstruct the confidential testimony).
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ORDERED:

D. Michael Chappell
Chief Administrative Law Judge

Date: _____

CERTIFICATE OF SERVICE

I hereby certify that on August 5, 2021, I filed Non-Party Natera, Inc.'s Motion for *In Camera* Treatment Pursuant to 16 C.F.R. § 3.45(b) electronically using the FTC's e-filing system, which will send notification of such filing to:

April Tabor
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Federal Trade Commission
600 Pennsylvania Ave., .N.W., Rm. H-113
Washington, DC 20580
electronicfilings@ftc.gov

The Honorable D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Ave., NW, Room H-110
Washington, DC 20580

I further certify that I delivered via electronic mail a copy of Non-Party Natera, Inc.'s Motion for *In Camera* Treatment Pursuant to 16 C.F.R. § 3.45(b) to:

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Dated: August 5, 2021
Washington, DC

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EXHIBIT A



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

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Bureau of Competition
Mergers I Division

July 26, 2021

VIA EMAIL TRANSMISSION

Natera, Inc.
c/o Stephen Weissman
Gibson, Dunn & Crutcher LLP
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5306
SWeissman@gibsondunn.com

RE: *In the Matter of Illumina, Inc., and GRAIL, Inc., Docket No. 9401*

Dear Mr. Weissman:

By this letter we are providing formal notice, pursuant to Rule 3.45(b) of the Commission's Rules of Practice, 16 C.F.R. § 3.45(b), that Complaint Counsel intends to offer the documents and testimony referenced in the enclosed Attachment A into evidence in the administrative trial in the above-captioned matter. For your convenience, a copy of the documents and testimony will be sent to you in a separate email with an FTP link.

The administrative trial is scheduled to begin on August 24, 2021. All exhibits admitted into evidence become part of the public record unless Chief Administrative Law Judge D. Michael Chappell grants *in camera* status (i.e., non-public/confidential).

For documents or testimony that include sensitive or confidential information that you do not want on the public record, you must file a motion seeking *in camera* status or other confidentiality protections pursuant to 16 C.F.R §§ 3.45 and 4.10(g). If you do not file an *in camera* motion, your documents will not receive *in camera* treatment and may be publicly disclosed. Judge Chappell may order that materials be placed *in camera* only after finding that their public disclosure will likely result in a clearly-defined, serious injury to the person, partnership, or corporation requesting *in camera* treatment.

Motions for *in camera* treatment for evidence to be introduced at trial must meet the strict standards set forth in 16 C.F.R. § 3.45 and explained in *In re Otto Bock Healthcare N. Am.*, 2018 WL 3491602 at *1 (July 2, 2018); and *In re 1-800 Contacts, Inc.*, 2017 FTC LEXIS 55 (April 4, 2017). Motions also must be supported by a declaration or affidavit by a person qualified to explain the confidential nature of the material. *In re 1-800 Contacts, Inc.*, 2017 FTC LEXIS 55 (April 4, 2017); *In re North Texas Specialty Physicians*, 2004 FTC LEXIS 66 (Apr. 23, 2004). For your convenience, we included, as links in the cover email, an example of a third-party motion (and the accompanying declaration or affidavit) for *in camera* treatment that was filed

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and granted in an FTC administrative proceeding. If you choose to move for *in camera* treatment, you must provide a copy of the document(s) for which you seek such treatment to the Administrative Law Judge.

Also, please be advised, if you intend to file an *in camera* motion, you will need credentials for the Commission's electronic filing system and a Notice of Appearance. The Notice of Appearance must be approved by the Office of the Secretary and can take up to twenty-four ("24") hours to issue. As such, you will need to file your Notice of Appearance at least one day prior to the day on which you intend to file your *in camera* motion. I have attached an e-filing checklist to assist with this process.

Please be aware that under the current Scheduling Order **the deadline for filing motions seeking *in camera* treatment is August 5, 2021**. A copy of the April 26, 2021 Scheduling Order can be found at <https://www.ftc.gov/enforcement/cases-proceedings/201-0144/illumina-inc-grail-inc-matter>. If you have any questions, please feel free to contact me at (202) 326-2433.

Sincerely,

/s/ Dylan Naegele

Dylan Naegele

Counsel Supporting the Complaint

Attachment

Attachment A

PUBLICConfidentiality Notice
Attachment A

Exhibit No.	Bates - Begin	Bates - End	Date	Full Name
PX7053	PX7053-001	PX7053-042	3/3/2021	IH Transcript: John Fesko (Natera)
PX7054	PX7054-001	PX7054-050	3/3/2021	IH Transcript: Matthew Rabinowitz (Natera)
PX7111	PX7111-001	PX7111-114	6/8/2021	Depo Transcript: John Fesko (Natera)
PX7113	PX7113-001	PX7113-371	6/10/2021	Depo Transcript: Matthew Raabinowitz (Natera)
PX8379	NAT-FTC_00000641	NAT-FTC_00000690	8/16/2013	Contract: Supply Agreement between Illumina and Natera
PX8532	FTC-V-ILLUMGRAIL-NAT-00000001	FTC-V-ILLUMGRAIL-NAT-00000011	3/19/2021	Document: EC Request for Information to Natera
PX8630	NAT-FTC_00010328	NAT-FTC_00010329	1/25/2021	Email from Steve Chapman to Daniel Rabinowitz, Ruben Gutierrez, John Fesko et al. re: Open Offer of Assurances from Illumina
PX9010	PX9010-001	PX9010-002	1/14/2021	Document: 1.14.2021- Natera Production Cover Letter
PX9011	PX9011-001	PX9011-002	1/29/2021	Document: 1.29.2021- Natera Production Cover Letter
PX9012	PX9012-001	PX9012-036	12/17/2020	Document: 2020.12.18 - Natera CID-SDT (courtesy copy)
PX0013	PX9013-001	PX9013-008	12/17/2020	Document: 2020.12.28 - Natera SAT (courtesy copy)
PX9014	PX9014-001	PX9014-002	12/28/2020	Document: 2021.01.29 - Natera - CID SDT Modification Letter
PX9015	PX9015-001	PX9015-002	1/29/2021	Document: 2021.02.19 - Natera - CID SDT Modification Letter

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EXHIBIT B

From: [Benjamin Atlas](#)
To: [Weissman, Stephen](#); [Tabbaa, JeanAnn](#)
Cc: [Jesse Weiss](#); [Michael Zaken](#); [Xhesi Hysi](#)
Subject: In the Matter of Illumina, Inc. and GRAIL, Inc. Docket No. 9401
Date: Monday, July 26, 2021 4:28:51 PM
Attachments: [2021.04.26 - Scheduling Order.pdf](#)

[WARNING: External Email]

Counsel,

As part of the Administrative Trial for *In the Matter of Illumina, Inc. & Grail, Inc.* (Dkt. No. 9401) set to begin on August 24, we have submitted a proposed list of documents and testimony we intend to use as trial exhibits. This list includes third party documents and testimony that have been designated confidential under the protective order entered by the Administrative Law Judge.

Per our obligation under the Scheduling Order, we are providing you with notice that we intend to use the documents and any associated family members produced by Natera and testimony provided by Natera witnesses listed below as trial exhibits, pursuant to 16 C.F.R. § 3.45(b).

Documents
FTC-V-ILLUMGRAIL-NAT-00000001
FTC-V-ILLUMGRAIL-NAT-00000001
FTC-V-ILLUMGRAIL-NAT-00000377
FTC-V-ILLUMGRAIL-NAT-00007346
FTC-V-ILLUMGRAIL-NAT-00008081
FTC-V-ILLUMGRAIL-NAT-00008156
FTC-V-ILLUMGRAIL-NAT-00008453
FTC-V-ILLUMGRAIL-NAT-00008561
FTC-V-ILLUMGRAIL-NAT-00012371
FTC-V-ILLUMGRAIL-NAT-00015761
FTC-V-ILLUMGRAIL-NAT-00024380
NAT-FTC_00000003
NAT-FTC_00000525
NAT-FTC_00000641
NAT-FTC_00006273
Testimony
Deposition Transcript of John Fesko
Deposition Transcript of Matthew Rabinowitz
RESERVED: Deposition Transcript of Steve Chapman

Under 16 C.F.R. § 3.45(b), if you wish, you may move the Administrative Law Judge to obtain in

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camera treatment for the documents and testimony listed below. Please note that the deadline for filing such a motion is August 5, 2021, and note the following information set forth in the Scheduling Order about the content of any such motion:

[There are] strict standards for motions for in camera treatment for evidence to be introduced at trial set forth in 16 C.F.R. § 3.45, explained In re Otto Bock Healthcare N. Am., 2018 WL 3491602 at *1 (July 2, 2018); and In re 1-800 Contacts, Inc., 2017 FTC LEXIS 55 (Apr. 4, 2017). Motions also must be supported by a declaration or affidavit by a person qualified to explain the confidential nature of the documents. In re 1-800 Contacts, Inc., 2017 FTC LEXIS 55 (Apr. 4, 2017); In re North Texas Specialty Physicians, 2004 FTC LEXIS 66 (Apr. 23, 2004). Each party or non-party that files a motion for in camera treatment shall provide one copy of the documents for which in camera treatment is sought to the Administrative Law Judge.

Scheduling Order ¶ 12.

Please confirm receipt of this notice.

Thanks,
Ben

Benjamin A. Atlas
Cravath, Swaine & Moore LLP
825 Eighth Avenue | New York, NY 10019
(212) 474-1105
batlas@cravath.com

This e-mail is confidential and may be privileged. Use or disclosure of it by anyone other than a designated addressee is unauthorized. If you are not an intended recipient, please delete this e-mail from the computer on which you received it.

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EXHIBIT C

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

<p>In the Matter of</p> <p>Illumina, Inc., a corporation,</p> <p style="text-align: center;">and</p> <p>GRAIL, Inc. a corporation,</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Docket No. 9401</p>
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**DECLARATION OF JOHN FESKO IN SUPPORT OF NON-PARTY NATERA, INC.’S
MOTION FOR *IN CAMERA* TREATMENT**

I, John Fesko, hereby declare as follows:

1. I am the Chief Business Officer of Natera, Inc. (“Natera”). I make this declaration in support of Non-Party Natera, Inc.’s Motion for *In Camera* Treatment (the “Motion”). I have personal knowledge of the matters stated herein and, if called upon to do so, could competently testify about them.

2. I have been employed by Natera since 2014. I have served in my current role since 2019. I have reviewed and am familiar with the documents and testimony that the parties have indicated they intend to introduce into evidence in the administrative trial. Such materials are copies of those that Natera provided, either in the above-captioned matter or in the Federal Trade Commission’s (“FTC”) investigation, in response to a subpoena *duces tecum* and subpoenas *ad testificandum* issued by Respondents Illumina, Inc. (“Illumina”) and GRAIL, Inc., as well as in response to a subpoena *duces tecum*, subpoenas *ad testificandum*, and a civil investigative demand issued by the FTC. Given my position at Natera, I am familiar with the type of information contained in the documents at issue and its competitive significance to

Natera. Based on my review of the documents, my knowledge of Natera’s business, and my familiarity with the confidentiality protection afforded this type of information by Natera, I submit that the disclosure of these documents to the public and to competitors of Natera would cause serious competitive injury to Natera.

3. Natera is a global supplier of cell-free DNA (“cfDNA”) testing with a focus on women’s health, oncology, and organ health. Natera pioneers noninvasive blood-based testing through the development of its next-generation, cfDNA technology platform. The development of this platform involves significant investment in novel molecular methods and proprietary bioinformatics. This technical information is highly-sensitive, distinguishes Natera from its competitors, and is critical to Natera’s business development and competition strategies.

4. Of the 29 documents that the parties have indicated they intend to introduce into evidence in the administrative trial in the above-captioned matter, 18 are particularly sensitive and contain confidential business information and secrets. As described in the Motion, Natera seeks permanent *in camera* protection of the following 14 documents in their entirety:

Included on the FTC and Respondents’ Potential Trial Exhibit Lists				
Exhibit No.¹	Document Title/Description	Date	Beginning Bates No.	Ending Bates No.
PX8532	Natera Responses to EC RFI	3/19/21	FTC-V-ILLUMGRAIL-NAT-00000001	FTC-V-ILLUMGRAIL-NAT-00000011
PX8379	Supply Agreement between Illumina and Natera	8/16/13	NAT-FTC_00000641	NAT-FTC_00000690
Included on the FTC’s Potential Trial Exhibit List Only				
PX8630	Email from Steve Chapman to Daniel	1/25/21	NAT-FTC_00010328	NAT-FTC_00010329

¹ Counsel for Respondents did not provide the exhibit numbers and accordingly only the Bates range is provided here. See [Exhibit B](#).

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	Rabinowitz, Ruben Gutierrez, John Fesko et al. re: Open Offer of Assurances from Illumina			
Included on Respondents' Potential Trial Exhibit List Only				
N/A	Natera slide deck titled "Novel Trial Design Strategies with a Personalized ctDNA Assay"	5/5/2020	FTC-V-ILLUMGRAIL-NAT-00007346	FTC-V-ILLUMGRAIL-NAT-00007377
N/A	Natera March 2020 Board of Directors slide deck	3/13/2020	FTC-V-ILLUMGRAIL-NAT-00008081	FTC-V-ILLUMGRAIL-NAT-00008135
N/A	Natera November 2020 Board of Directors slide deck	11/17/2020	FTC-V-ILLUMGRAIL-NAT-00008156	FTC-V-ILLUMGRAIL-NAT-00008275
N/A	Natera 2021 Annual Board & Strategic Planning Meeting slide deck	1/29/2021	FTC-V-ILLUMGRAIL-NAT-00008453	FTC-V-ILLUMGRAIL-NAT-00008545
N/A	Natera March 2021 Board of Directors slide deck	3/16/2021	FTC-V-ILLUMGRAIL-NAT-00008561	FTC-V-ILLUMGRAIL-NAT-00008699
N/A	Natera slide deck titled "Competitive update"	1/2021	FTC-V-ILLUMGRAIL-NAT-00012371	FTC-V-ILLUMGRAIL-NAT-00012393
N/A	Natera January 2014 Board of Directors slide deck	1/16/2014	FTC-V-ILLUMGRAIL-NAT-00015761	FTC-V-ILLUMGRAIL-NAT-00015817
N/A	Natera slide deck titled "Initial Public Offering Roadshow Presentation"	N/A	FTC-V-ILLUMGRAIL-NAT-00024380	FTC-V-ILLUMGRAIL-NAT-00024413
N/A	Signatera test device description	N/A	NAT-FTC_00000003	NAT-FTC_00000009

N/A	Natera slide deck titled “Natera Signatera Workflow and PCR Schematics”	1/21/2020	NAT-FTC_00000525	NAT-FTC_00000533
N/A	Natera slide deck titled “Market Share and Competitor Update”	5/24/2017	NAT-FTC_00006273	NAT-FTC_00006284

As further described in the Motion, Natera seeks permanent *in camera* protection of the following portions of the 4 deposition transcripts:

Included on the FTC and Respondents’ Potential Trial Exhibit Lists			
Exhibit No.	Document Title/Description	Date	Lines/Pages for which <i>in camera</i> treatment is requested
PX7111	Depo Transcript: John Fesko	6/8/2021	15:21-16:1; 18:19-19:4; 20:7-10; 20:13-30:5; 30:7-34:21; 35:1-20; 39:17-40:3; 40:8-10; 40:16-22; 41:6-16; 42:3-44:22; 46:16-22; 47:7-20; 48:1-50:1; 51:4-20; 52:3-54:17; 55:18-56:6; 56:20-57:19; 57:22-58:4; 59:5-60:20; 61:21; 62:4-66:14; 67:7-78:20; 79:3-81:13; 82:22-83:7; 84:10-102:14; 114:4-116:6; 119:12-15; 119:22-120:15; 123:11-124:19; 131:12-132:17; 133:5-134:3; 134:22-136:5; 136:11-143:1; 144:21-146:6; 147:8-150:3; 150:12-152:14; 156:11-165:8; 166:4-174:14; 177:4-188:21; 191:7-207:15; 208:10-224:14; 225:8-229:20; 230:14-16; 231:1-255:5; 255:11-260:1 And PX7111-068 through PX7111-112 (the glossary; as it could be used to reconstruct the confidential testimony).
PX7113	Depo Transcript: Matthew Rabinowitz	6/10/2021	36:2- 37:2; 38:1-54:4; 56:9-21; 57:14-59:18; 60:2-66:9; 67:10-74:16; 75:6-11; 75:16-18; 76:1-77:7; 77:16-79:21; 80:4-82:15;

			<p>82:22-84:8; 84:12-88:5; 89:6-11; 89:19-94:13; 95:10-15; 96:4-100:8; 100:20-101:2;101:19-109:14; 110:2-114:7; 114:19-115:2; 115:6-116:13; 117:1-123:4; 134:9-17; 138:4-140:9; 142:4-146:4; 147:17-149:9; 149:20-151:7; 152:10-15; 153:6-18; 156:1-3; 156:16-157:4; 159:11-160:5; 160:14-22; 161:18-162:12; 163:10-164:14; 165:18; 166:11-171:22; 172:6-173:22; 174:8-176:2; 177:8-9; 178:16-179:4; 179:6-18; 180:13-182:7; 182:18-183:8; 183:14-187:19; 188:21-189:11; 189:17-193:15; 194:9-198:18; 198:20-205:10; 206:13-208:13; 209:12-215:2; 216:22-217:17; 217:22-218:9; 218:11-221:3; 223:11; 225:22-231:11; 233:8-262:16; 263:5-265:16; 266:5-283:22; 285:21-286:7; 286:15-289:19; 290:5-297:5; 297:15-298:3; 300:6-303:18</p> <p>And PX7113-311 through PX7113-369 (the glossary as it could be used to reconstruct the confidential testimony).</p>
Included on the FTC’s Potential Trial Exhibit List Only			
PX7053	IH Transcript: John Fesko	3/3/2021	<p>19:6-15; 19:19-22; 20:7-10; 22:17-23; 24:4-5; 24:13-18; 25:1-3; 25:12-26:7; 28:7-8; 31:6-10; 34:15-35:2; 35:15-37:15; 38:1-2; 38:11-13; 39:22-41:17; 42:4-45:22; 46:18-51:5; 55:4-63:16; 64:8-69:14; 69:17-70:4; 70:9-72:10; 72:24-81:1; 81:16-86:15; 88:4-89:16; 89:21-91:25; 92:12-96:1; 96:11-98:20; 99:2-100:23</p> <p>And PX7053-028 through PX7053-042 (the glossary; as it could be used to reconstruct the confidential testimony).</p>

PX7054	IH Transcript: Matthew Rabinowitz	3/3/2021	9:4-12;12:19-22; 17:20-18:5; 18:7-21; 25:17-23; 28:7-18; 30:20-21; 38:22-39:15; 39:20-46:6; 47:22-50:4; 51:2-24; 52:1-53:1; 53:21-69:5; 69:12-74:11; 76:6-9; 76:19-94:19; 97:16-119:6 And PX7054-033 through PX7053-050 (the glossary; as it could be used to reconstruct the confidential testimony).
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5. PX8532 is Natera’s response to a request for information issued by the European Commission relating to the transaction at issue in the above-captioned matter. Pursuant to this request, Natera provided trade secret information concerning the technical specificity and research and development efforts of its blood-based cancer screening tests. Natera further provided highly-sensitive business information concerning these tests, including its plans for marketing and commercializing the tests, and its analysis of competition in the industry. This document, and the information provided therein, has been shared with a small number of high-level employees at Natera, Natera’s counsel, and the European Commission solely for the purpose of cooperating with the European Commission in connection with its investigation with the understanding that the document would not be shared with the public and would be designated highly-confidential.

6. PX8379 is an agreement between Natera and a supplier, Illumina. This contract contains highly-sensitive business information, such as the contract terms concerning pricing. Based on my experience negotiating such agreements, the existence of this contract and the terms will be competitively significant indefinitely as the terms are likely to be discussed pursuant to ongoing and future negotiations with Illumina. Accordingly, although this information is more than three-years old, the competitive significance of this agreement and the

contract terms therein is unlikely to decrease over time and thus, indefinite protection from public disclosure is appropriate.

7. PX8630 is an email chain dated January 25, 2021 between Natera and Illumina concerning the transaction at-issue in the above-captioned matter. This is not an ordinary course document, but rather a discussion between a small group of Natera counsel and high-level employees and a few high-level employees at Illumina. This document contains highly-sensitive business information, such as the contract terms concerning pricing and ongoing negotiations regarding the same. For the reasons discussed above, the competitive significance of this document and the summary of the negotiation therein is unlikely to decrease over time and thus, indefinite protection from public disclosure is appropriate.

8. The slide decks beginning with Bates numbers FTC-V-ILLUMGRAIL-NAT-00007346; FTC-V-ILLUMGRAIL-NAT-00008081; FTC-V-ILLUMGRAIL-NAT-00008156; FTC-V-ILLUMGRAIL-NAT-00008453; FTC-V-ILLUMGRAIL-NAT-00008561; FTC-V-ILLUMGRAIL-NAT-00012371; FTC-V-ILLUMGRAIL-NAT-00015761; NAT-FTC_00000525; and NAT-FTC_00006273 contain trade secret information and highly-sensitive business information. For example, these documents contain trade secret information concerning the results of highly-technical research studies relating to Natera's tests and Natera's considerations relating to the development of certain technical specifications of its tests, as well as schematics regarding Natera's products. In addition, these documents contain highly-sensitive business information relating to strategies concerning negotiations with suppliers and relationships with customers, as well as plans for the research and development, including contemplated strategic partnerships with other industry participants, and the marketing and commercializing of Natera tests. Furthermore, these documents contain highly-confidential,

non-public financial information relating to Natera's sales and revenues including the assumptions of internal financial models and projections for several years out based on such models. These documents also contain information relating to pricing and reimbursement of Natera tests, including Natera's strategic plans concerning such subject-matter. All of these documents were shared only with a small group of officers, directors, senior-level employees, and counsel at Natera. Based on my experience at Natera and in this industry, the competitive significance of these documents and the highly-sensitive business information contained therein is unlikely to decrease over time and thus, indefinite protection from public disclosure is appropriate. This is the case with respect to all of these documents, including the document beginning FTC-V-ILLUMGRAIL-NAT-00015761, despite it being more than three-years old, as it illustrates Natera's internal strategic planning in the diagnostics market, which is applicable to Natera's competitive strategies today and will be indefinitely.

9. The slide deck beginning with Bates number FTC-V-ILLUMGRAIL-NAT-00024380 contains highly-sensitive business information. It was shared with select investors around the time that Natera conducted an initial public offering (i.e., July 2015). This document includes highly-sensitive information concerning Natera's pricing for tests. Similar to documents discussed above, despite this document being more than three-years old, its significance and the highly-sensitive business information contained therein, including the pricing of oncology tests and estimates of the size of total addressable markets, is unlikely to decrease over time, and thus indefinite protection from public disclosure is appropriate.

10. The document beginning with Bates number NAT-FTC_00000003 contains trade secret information. In particular, this document details to the test processes associated with Natera's oncology test, Signatera. Irrespective of the date this document was created, it contains

information, which continues to constitute trade secrets and will indefinitely.

11. The documents beginning PX7111, PX7113, PX7053, PX7054 are transcripts of the deposition testimony of Matthew Rabinowitz, the Chairman of Natera, and myself, John Fesko, Chief Business Officer of Natera. These depositions were conducted pursuant to subpoenas *ad testificandum* issued by the parties in the above-captioned matter, as well as during the preceding investigation. The testimony in these transcripts consists entirely of discussion concerning either trade secrets or highly-sensitive business information. For example, the testimony discusses documents that contain such information, and which, accordingly, counsel for Natera designated as “Confidential” under the operative protective order in the above-captioned matter, including several of the documents for which *in camera* treatment is requested in this Motion. Aside from discussion of these documents, the testimony concerns Natera’s strategic and development and business plans for its diagnostics; Natera’s relationship with suppliers, customers, competitors and other industry participants; and Natera’s strategic considerations concerning the commercialization of products, including the pricing and reimbursement of products associated with such plans. Furthermore, competition in the diagnostics industry is premised on significant proprietary and trade secret information and business relationships. Based on my experience at Natera and in the industry, the disclosure of Natera’s consideration of such material to the public and its competitors, would reveal information concerning Natera’s test specifications, development plans and market strategies, negotiation tactics and contract terms, which would allow competitors to unfairly compete against Natera and/or undermine the advantages Natera has built on the basis of its substantial investments in the development and commercialization of its proprietary technologies and products. For these reasons, this testimony, which was provided by high-level officers at non-

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party Natera pursuant to compulsory processes and discusses Natera's consideration of the market today and projections for the market and its plans as a participant in such market should be afforded *in camera* treatment indefinitely.

Pursuant to 28 U.S.C. § 1746, I declare, under the penalty of perjury, that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on: August 5, 2021

/s/ John Fesko

Name: John Fesko

Chief Business Officer of Natera, Inc.

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EXHIBIT D

Proceeding Exhibit No.: PX8532

Beginning Bates No.: FTC-V-ILLUMGRAIL-NAT-00000001

Confidential - *In Camera* Treatment Requested

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EXHIBIT D

Proceeding Exhibit No.: PX8379

Beginning Bates No.: NAT-FTC_00000641

Confidential - *In Camera* Treatment Requested

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EXHIBIT D

Proceeding Exhibit No.: PX8630
Beginning Bates No.: PNAT-FTC_00010328

Confidential - *In Camera* Treatment Requested

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EXHIBIT D

Beginning Bates No.: FTC-V-ILLUMGRAIL-NAT-00007346

Confidential - *In Camera* Treatment Requested

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EXHIBIT D

Beginning Bates No.: FTC-V-ILLUMGRAIL-NAT-00008081

Confidential - *In Camera* Treatment Requested

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EXHIBIT D

Beginning Bates No.: FTC-V-ILLUMGRAIL-NAT-00008156

Confidential - *In Camera* Treatment Requested

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EXHIBIT D

Beginning Bates No.: FTC-V-ILLUMGRAIL-NAT-00008156

Confidential - *In Camera* Treatment Requested

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EXHIBIT D

Beginning Bates No.: FTC-V-ILLUMGRAIL-NAT-00008561

Confidential - *In Camera* Treatment Requested

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EXHIBIT D

Beginning Bates No.: FTC-V-ILLUMGRAIL-NAT-00012371

Confidential - *In Camera* Treatment Requested

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EXHIBIT D

Beginning Bates No.: FTC-V-ILLUMGRAIL-NAT-00015761

Confidential - *In Camera* Treatment Requested

PUBLIC

EXHIBIT D

Beginning Bates No.: FTC-V-ILLUMGRAIL-NAT-00024380

Confidential - *In Camera* Treatment Requested

PUBLIC

EXHIBIT D

Beginning Bates No.: NAT-FTC_00000003

Confidential - *In Camera* Treatment Requested

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EXHIBIT D

Beginning Bates No.: NAT-FTC_00000525

Confidential - *In Camera* Treatment Requested

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EXHIBIT D

Beginning Bates No.: NAT-FTC_00006273

Confidential - *In Camera* Treatment Requested

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EXHIBIT E

Proceeding Exhibit No.: PX7111
Beginning Bates No.: PX7111-001

Confidential - *In Camera* Treatment Requested

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EXHIBIT E

Proceeding Exhibit No.: PX7113
Beginning Bates No.: PX7113-001

Confidential - *In Camera* Treatment Requested

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EXHIBIT E

Proceeding Exhibit No.: PX7053
Beginning Bates No.: PX7053-001

Confidential - *In Camera* Treatment Requested

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EXHIBIT E

Proceeding Exhibit No.: PX7054
Beginning Bates No.: PX7054-001

Confidential - *In Camera* Treatment Requested