

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Senior District Judge Richard P. Matsch**

Date: September 24, 2012  
Courtroom Deputy: J. Chris Smith  
FTR Technician: Kathy Terasaki

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Civil Action No. 10-cv-03115-RPM

SCOTT CZARNIAK and  
ADRIENNE CZARNIAK,

Keith F. Cross  
Todd J. Krouner

Plaintiffs,

v.

20/20 INSTITUTE and  
MATTHEW K. CHANG, M.D.

Benjamin P. Swartzendruber  
C. Gregory Tiemeier  
Max S. Stich

Defendants.

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**Amended COURTROOM MINUTES**

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**Hearing on Motions for Summary Judgment**

**1:55 p.m. Court in session.**

Defendant 20/20 Institutes' client representative Mark Danzo present.

Court's preliminary remarks.

Mr. Cross answers questions asked by the Court regarding case facts, claims (CCPA) and damages.

**ORDERED: Plaintiffs' Motion to Strike the Affidavit of Gary Bircham, O.D [91], is denied.**

Argument by Mr. Swartzendruber [68].

Argument by Mr. Tiemeier [74].

**ORDERED: Defendant 20/20 Institute, LLC's Motion for Summary Judgment on Plaintiffs' CCPA and Fraud and Misrepresentation Claims [68], is denied.**

**Matthew K. Chang, M.D.'s Fed. R. Civ. P. 56 Motion for Partial Summary Judgment Regarding Plaintiffs' Second and Third Claims For Relief [74], is denied.**

**Plaintiffs permitted to take the deposition of Gary Birchman on the basis of his affidavit.**

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Discussion and argument by counsel regarding plaintiffs' CCPA experts.

Court states Daniel Baack Ph.D is not permitted to testify regarding the intent of 20/20's advertising.

Discussion regarding scheduling.

**ORDERED: Two week trial to jury set April 29, 2013.**

Discussion regarding witnesses that may appear by videotape.

**ORDERED: Pretrial conference set March 8, 2013 at 2:00p.m.**

**2:22 p.m. Court in recess.**

Hearing concluded. Total time: 27 min.