

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THE KAYO CORP.,	:	
	:	<u>ORDER REGULATING</u>
	:	<u>PROCEEDINGS</u>
-against-	:	
	:	18 Civ. 3981 (AKH)
FILA U.S.A., INC.,	:	
	:	
Defendant.	:	
	:	
	:	
	:	
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ALVIN K. HELLERSTEIN, U.S.D.J.:

On December 1, 2021 I held oral argument regarding certain damages issues. Defendant sought to exclude the entirety of Plaintiff’s expert report, the Stark Report. For the reasons stated on the record, I denied that request and ruled that the expert reports are admissible. Any specific, relevant opinions to which Defendant takes exception are subject to cross examination, not for the qualification of experts under *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), and its progeny.

I also ruled that Defendant may make a motion to exclude evidence of lost profits as such profits may not be recoverable under New York law. As I stated, Defendant shall make its motion by December 17, 2021; Plaintiff shall oppose by January 14, 2022; Defendant shall make any reply by January 21, 2022. Argument of the motion, along with scheduling of the Final Pretrial Conference and scheduling of trial, will be held at 2:30 p.m. on February 1, 2022 at

500 Pearl Street, Courtroom 14D, New York, NY. No later than January 28, 2022 at 12:00 p.m.

the parties shall submit jointly a list of counsel expected to appear on the record.

SO ORDERED.

Dated: December 1, 2021
New York, New York

/s/ Alvin K. Hellerstein
ALVIN K. HELLERSTEIN
United States District Judge