

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKUSDC SDNY
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RODGER JENKINS and GREGORY JONES :
:
Plaintiffs, :
:
-against- : 19-CV-1774 (VEC)
:
: ORDER
XPRESSPA GROUP, INC., :
:
Defendant. :
----- X

VALERIE CAPRONI, United States District Judge:

WHEREAS the parties are tentatively scheduled to appear before the Court for a bench trial in May 2021;

WHEREAS as of March 17, 2021, the parties' motions *in limine* are fully briefed; and

WHEREAS on March 22, 2021, the parties jointly notified the Court that its decision on one of Defendant's motions *in limine* may help facilitate a settlement in advance of trial, Dkt.

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IT IS HEREBY ORDERED that oral argument on the parties' motions *in limine* is scheduled for **April 9, 2021, at 2:30 p.m.** Oral argument will be conducted via Zoom video conference. Chambers will email the parties with further information on how to access the video conference and will post a subsequent order providing a public dial-in.

IT IS FURTHER ORDERED that the parties must be prepared to discuss why their arguments, including those invoking judicial estoppel, are appropriate for disposition on a motion *in limine*. *See, e.g., Audio Technica U.S., Inc. v. United States*, 963 F.3d 569, 575 (6th Cir. 2020) (“[I]t was improper for the district court to consider judicial estoppel within the context of a motion *in limine*. Rather than addressing the admissibility of certain pieces or types

of evidence, [plaintiff's] motion asked the court to bar the jury from hearing one side's argument, essentially granting them judgment as a matter of law on that point. Such non-evidentiary legal issues must be decided in the context of a motion for summary judgment").

SO ORDERED.

Date: April 1, 2021
New York, New York


VALERIE CAPRONI
United States District Judge