

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 4/1/2021
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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RODGER JENKINS and GREGORY JONES

Plaintiffs,

-against-

XPRESSPA GROUP, INC.,

Defendant.

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19-CV-1774 (VEC)

ORDER

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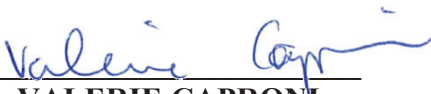
IT IS HEREBY ORDERED that oral argument on the parties' motions *in limine* is scheduled for **April 9, 2021, at 2:30 p.m.** Oral argument will be conducted via Zoom video conference. Chambers will email the parties with further information on how to access the video conference and will post a subsequent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