IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

GENETICS INSTITUTE, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civ. No. 08-290-SLR
	)	
NOVARTIS VACCINES AND DIAGNOSTICS, INC.,	)	
	)	
	)	
Defendant.	)	

ORDER

At Wilmington this 23rd day of October, 2009, having reviewed the letter submitted by Dr. Burke's physician related to the pending request by Novartis to excuse Dr. Burke from providing either deposition or trial testimony in connection with the above referenced case;

IT IS ORDERED that Dr. Burke shall be so excused, based on the diagnosis provided by her physician. However, because it is not clear from the submission how the diagnosed condition is affecting Dr. Burke's daily life, sanctions will be imposed against Novartis in this case[1] if Dr. Burke provides any testimony (through a declaration, a deposition or at trial) in any other case involving the patents at bar.

United States District Judge

[1]Depending on the circumstances, I would consider sanctions ranging in severity from the imposition of an adverse inference to the imposition of the costs of a new trial to the imposition of an adverse judgment.