

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

ENZO LIFE SCIENCES, INC., :  
 :  
 Plaintiff/Counterclaim :  
 Defendant, :  
 :  
 v. : Civil Action No. 02-212 JJF  
 :  
 DIGENE CORPORATION, :  
 :  
 Defendant/Counterclaim :  
 Plaintiff, :  
 :  
 v. :  
 :  
 ENZO BIOCHEM, INC., :  
 :  
 Additional Counterclaim :  
 Defendant/Declaratory :  
 Plaintiff. :

**MEMORANDUM ORDER**

Enzo Life Sciences, Inc. ("Enzo") has requested me to order the depositions of four expert witnesses in this case be completed by June 1, 2004. Digene Corporation ("Digene") has responded that it prefers the depositions be taken in early June after the second pre-trial conference and before the commencement of trial on June 14, 2004. The dispute was submitted by e-mail pursuant to the emergency procedures provision of the Scheduling Order.

In their papers, counsel have accused each other of being untruthful in their argument to the Court. For example, Enzo asserts that Digene's allegations are "demonstrably untrue," and Digene claims that "Enzo's recounting of the facts is

misleading.”

From the record before me, I cannot determine if either party's counsel has lied, so I will decide the dispute without addressing these serious allegations. However, if either side truly believes such unethical conduct has occurred, I invite a formal motion pursuant to the federal and local rules to be filed before May 25, 2004. If no motion is filed, I expect counsel will apologize to his or her colleague for a lapse in judgment with a copy to me.

NOW THEREFORE, IT IS HEREBY ORDERED, because of the June 14, 2004, trial date, that all expert depositions shall be completed by June 1, 2004.

May 18, 2004  
DATE

JOSEPH J. FARNAN, JR.  
UNITED STATES DISTRICT JUDGE