Vazquez, Jesus

From: Vazquez, Jesus
Sent: Thursday, June 14, 2012 9:04 PM
To: Scott D. Stimpson
Cc: David C. Lee; Scott Murray; Lauren Siber; Kanan, Greg; Kostolansky, Kris J.; Kirstin Stoll-DeBell; Henke, Peggy J.; Ridley, Terence; norris@wtotrial.com; Henke, Peggy J.
Subject: Re: Health Grades, Inc. v. MDx Medical, Inc.; Civil Action No. 11-CV-00520-PAB-BNB

Scott,

You know well that we agreed to mark all documents as "highly confidential" pending entry of a protective order in the case. In fact, it was specifically your idea to do so. The only exception occurred when we advised you that screen shots from Vitals' public website should not be designated as such.

If there are any HG documents that you believe are not properly designated, please give us the bates numbers and we will review them promptly to assess if a lesser designation is warranted.

With respect to your motion, you can characterize our good faith effort to determine which materials we would not oppose as "silliness" or however you want. Be assured that our response will inform the Court regarding our conferral on this.

Jesús M. Vázquez, Esq.
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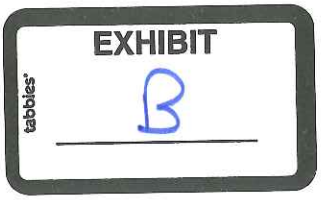
On Jun 14, 2012, at 7:40 PM, "Scott D. Stimpson" <sstimpson@sillscummis.com> wrote:

> Jesus:
>
> We will file the motion as opposed. The HG position is particularly disturbing given HG's vast overuse of the "attorneys' eyes only" designation, including even public documents. The page-by-page analysis you do below is silliness, as it would create a logistical nightmare for the parties and court. Why Health Grades is unwilling to comply with our agreement, and meet and confer on confidentiality designations before raising them with the Court, is a mystery to us.
>
> We recognize your written notice that you think portions of our documents are not sufficiently confidential. That, however, does not satisfy the requirements of the protective order for a meet and confer. When you are ready for that conference, please be fully prepared to justify the hundreds of thousands of documents HG has designated "attorneys' eyes only."
>
> Scott



Sills Cummis & Gross P.C.
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Scott D. Stimpson
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From: Vazquez, Jesus [mailto:jvazquez@rothgerber.com]
Sent: Thursday, June 14, 2012 6:02 PM
To: David C. Lee
Cc: Scott D. Stimpson; Scott Murray; Lauren Siber; Kanan, Greg; Kostolansky, Kris J.; 'Kirstin Stoll-DeBell'; Henke, Peggy J.
Subject: RE: Health Grades, Inc. v. MDx Medical, Inc.; Civil Action No. 11-CV-00520-PAB-BNB

David,

We have reviewed the documents that MDx seeks to restrict and had our consultations regarding the same. As we have advised you, we do not believe that many of the materials that MDx has designated as "highly confidential" merit that designation.

With respect to the documents you seek to restrict in your anticipated motion:

Document No 201. This is the actual response brief. Of the 41 pages, only pages 7, 27 and 38 reference just portions of materials designated as "highly confidential" by MDx. Certainly there is no cause to restrict the entire document based on these three references, nor do we agree that the specific pages should be isolated and restricted.

Document 201-15. This is a 26 page document. We do dot agree that pages 8, 9, 10, 11, 14, 15, 16, 17 and 22-26 should be restricted. Those pages have references to copying Health Grades and otherwise do not meet the requirements to designate them as "highly confidential." Please consider this our written notice that we are challenging that designation.

Document 201-16. This is a 25 page document. We do not agree that pages 7, 13, 18 and 19 should be restricted. Those pages have references to copying Health Grades and otherwise do not meet the requirements to designate them as "highly confidential." Please consider this our written notice that we are challenging that designation.

Document 201-17. This is a two page email that very obviously should not be designated "highly confidential." Please consider this our written notice that we are challenging that designation.

With respect to Document Nos. 201 and 201-17, and the pages within Document Nos. 201-15 and 201-16 referenced above, Health Grades opposes MDx's motion.

With respect to any pages within Document Nos. 201-15 and 201-16 that are **not** specifically mentioned above, you can state that HG does not oppose the motion to restrict those pages, but that we reserve the right to challenge their designation and that the fact that we do not oppose MDx's motion as to those pages does not mean that we agree they are properly designated as "highly confidential."

Thanks, Jesus

Jesús M. Vázquez, Attorney-at-Law

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From: David C. Lee [mailto:dlee@sillscummis.com]
Sent: Thursday, June 14, 2012 12:44 PM
To: David C. Lee
Cc: Vazquez, Jesus; Scott D. Stimpson; Scott Murray; Lauren Siber
Subject: Re: Health Grades, Inc. v. MDx Medical, Inc.; Civil Action No. 11-CV-00520-PAB-BNB

Jesus:

I just wanted to follow up on our email below.

Regards,
David

Sent from my mobile device

On Jun 13, 2012, at 7:31 PM, "David C. Lee" <dlee@sillscummis.com> wrote:

> Jesus:
>
> Attached is the draft motion to restrict. Please let us know if Health Grades agrees to designate the motion as unopposed in view of footnote 2.
>
> Regards,
> David

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<2143001-V2-motion to restrict.DOC>

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