EXHIBIT C

(Redacted Version of Dkt. # 404-4 and 405-4)

Civil Action No. 11-CV-00520-PAB-BNB

HEALTH GRADES, INC.'S OPPOSITION TO MDx MEDICAL, INC.'S MOTION FOR SUMMARY JUDGMENT OF NO WILLFULNESS

HEALTH GRADES, INC.'S OPPOSITION TO MDx MEDICAL, INC.'S MOTION FOR SUMMARY JUDGMENT OF NON-INFRINGEMENT

Exhibit 4

June 26, 2012 Deposition of Lawrence West
(selected portions)

CONFIDENTIAL ATTORNEYS' EYES ONLY

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF COLORADO
----------x
HEALTH GRADES, INCORPORATED,

Plaintiff,

vs. Civil Action No.

11-CV-00520-PAB-BNB

MDX MEDICAL, INCORPORATED D/B/A,
VITALS.COM,

Defendant.
----------x

June 26, 2012

8:00 a.m.

Videotaped deposition of LAWRENCE WEST, taken by Plaintiff, pursuant to Notice, at the offices of Sills, Cummis & Gross P.C., The Legal Center, One Riverfront Plaza, Newark, New Jersey, before Georgette K. Betts, a Certified Shorthand Reporter, Registered Professional Reporter, Certified Livenote Reporter and Notary Public within and for the States of New York and New Jersey.

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BY: SCOTT D. STIMPSON, ESQ.

ALSO PRESENT:
PHILIP GREENSPUN,
Expert for Healthgrades

DAVID SANDERS, VIDEO OPERATOR

June 26, 2012

I N D E X

WITNESS	EXAMINATION	PAGE
LAWRENCE WEST		
	BY MR. KANAN	7, 277
	BY MR. STIMPSON	274

E X H I B I T S

WEST	DESCRIPTION	PAGE
Exhibit 1	document titled "Thinking About Physician Quality, Getting to a Fuller View", Bates-stamped MDX0012038 through 12285	75
Exhibit 2	schematic drawing of the Vitals website	77
Exhibit 3	Vitals XML feed guide version 1.3 Bates-stamped MDX0019309 through 326	85
Exhibit 4	document Bates-stamped MDX0011861 through 862	103
Exhibit 5	e-mail Bates-stamped MDX0019254 through 255	105
Exhibit 6	e-mail Bates-stamped MDX0034444 through 46	135
Exhibit 7	depiction of the Vitals iFrame window	152
Exhibit 8	screen shot	161

E X H I B I T S

WEST	DESCRIPTION	PAGE
Exhibit 9	screen shot of particular page of a Vitals search	182
Exhibit 10	document Bates-stamped MDX0069146 through 215	190
Exhibit 11	screen shot	217
Exhibit 12	screen shot	223
Exhibit 13	screen shot	226
Exhibit 14	document Bates-stamped MDX0025310 through 333	232
Exhibit 15	e-mails Bates-stamped MDX0039641 through 645	237
Exhibit 16	two-page screen shot	258
Exhibit 17	document Bates-stamped MDX0000177 through 182	262
Exhibit 18	document Bates-stamped MDX0039659 through 689	264
Exhibit 19	document Bates-stamped MDX0104073 through 110	264
Exhibit 20	document Bates-stamped MDX0071952 through 989	264
Exhibit 21	document Bates-stamped MDX0034556 through 640	264

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08:45:05 17
08:45:15 18
08:45:17 19
08:45:20 20
08:45:21 21 REDACTED
08:45:24 22
08:45:28 23
08:45:34 24
08:45:36 25

REDACTED

Q. And how did you notify physicians that they had the ability do this?

A. We did not actively send out notifications.

If a provider came to our website there was an opportunity for them to log-in.

Q. Is that true of the current status of the website that the physicians can edit information about themselves?

A. Yes. Physicians can edit information about themselves.

Q. And do they?

A. Yes, they do.

Q. You monitor, I assume, when a physician edits?

A. Yes.

Q. And some physicians do come to your site and edit information about themselves?

A. Yes.

Q. And are they allowed to freely edit the information, change anything that's in their physician data?

A. No.

REDACTED

REDACTED

Q. And you said physicians do come to the site and do edit their profile --

A. Yes.

Q. -- correct?

08:47:39 1 A. Uh-huh.
08:47:40 2 Q. I assume there are physicians who
08:47:42 3 come to the website and look at their profile
08:47:44 4 but don't make any edits; is that correct too?
08:47:47 5 MR. STIMPSON: Objection.
08:47:47 6 Calls for speculation.
08:47:48 7 MR. KANAN: I don't know
08:47:48 8 whether it calls for speculation.
08:47:50 9 REDACTED
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08:48:21 25 Q. So is that different than just

don't guess, go ahead.

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09:00:58 1

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09:43:29 1 data sets and then if the data sets were equal
09:43:33 2 we would tag the data as coming from both
09:43:36 3 sources, otherwise it would be added as
09:43:38 4 additional records.
09:43:40 5 REDACTED
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REDACTED

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09:46:00 12
09:46:02 13
09:46:03 14 MR. STIMPSON: Hold on a
09:46:04 15 second. Can just I have those
09:46:06 16 questions back.
09:46:44 17 (Record read.)
09:46:46 18 MR. STIMPSON: We got an
09:46:47 19 answer to that? Okay. All right.
09:46:48 20 It's okay.
09:46:57 21 THE WITNESS: Did I answer
09:46:57 22 that?
09:46:57 23 THE COURT REPORTER: I have
09:46:57 24 "yeah."
09:46:58 25 MR. STIMPSON: I didn't hear

it.

THE WITNESS: I was waiting for him.

MR. KANAN: Well we don't need to play a game here --

MR. STIMPSON: Anyway, let me --

MR. KANAN: Why don't you state whatever objection you want --

MR. STIMPSON: Yeah.

MR. KANAN: -- and maybe he can answer it.

MR. STIMPSON: Yeah, I'll just state the objection. It was compound, there were two questions there.

And even if there was -- I think he may have been saying yes, but to me.

MR. KANAN: Fair enough. Let me just try and reask it.

MR. STIMPSON: Yeah, all right.

BY MR. KANAN:

REDACTED

REDACTED

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REDACTED

(Whereupon, document titled "Thinking About Physician Quality, Getting to a Fuller View", Bates-stamped MDX0012038 through 12285, was marked as West Exhibit 1 for identification, as of this date.)

Q. Okay.

Mr. West, let me show you what's been marked deposition Exhibit 1.

This is a document produced by MDx in this litigation. It is titled "Thinking About Physician Quality, Getting to a Fuller View."

You see that on the first page?

A. Yes.

Q. Have you ever seen this document before?

A. Not that I can recall.

Q. Have you seen something like it?

A. This is representative of a typical presentation document.

Q. Okay.

A. Without seeing the content I can't tell you.

15:11:27 1 MR. KANAN: 'Cause this is the
15:11:28 2 one we saw.
15:11:29 3 MR. STIMPSON: Uh-huh.
15:11:30 4 MR. KANAN: If there is one
15:11:31 5 that's the later version and if
15:11:34 6 there is not produce to us the
15:11:35 7 latest version of it.
15:11:41 8 Q. Okay. Mr. West, if you look at
15:11:42 9 Exhibit 19.
15:11:43 10 MR. STIMPSON: It helps if I
15:11:44 11 get an e-mail on this, I'll write it
15:11:46 12 down too, but it helps me to
15:11:48 13 remember.
15:11:49 14 MR. KANAN: We'll follow up.
15:11:50 15 MR. STIMPSON: I know you sent
15:11:51 16 me an e-mail earlier today.
15:11:53 17 MR. KANAN: We'll follow up.
15:12:06 18 Q. Have you seen Exhibit 19 before,
15:12:07 19 Mr. West?
15:12:09 20 A. Yes.
15:12:10 21 Q. And what is this document?
15:12:12 22 A. These are screen shots of the SQL
15:12:15 23 that was written to generate the counts for the
15:12:20 24 interrogatory response.
15:12:23 25 Q. And so the number at the bottom

15:12:24 here under "count" would be the number of
15:12:29 physicians for whom you have this -- the
15:12:31 particular data; is that correct?
15:12:36 A. That is correct.
15:12:37 REDACTED
15:12:40
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REDACTED

REDACTED

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15:16:13 13
15:16:15 14
15:16:15 15
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15:16:17 17
15:16:22 18
15:17:29 19
15:17:29 20 If you would look at Exhibit 20,
15:17:34 21 Mr. West, have you ever seen this document
15:17:45 22 before?
15:17:51 23 A. I don't know at this point, not
15:17:53 24 that I'm aware of.
15:17:57 25 Q. Do you know what it is, site

Civil Action No. 11-CV-00520-PAB-BNB

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Q. And how did you notify physicians that they had the ability do this?

A. We did not actively send out notifications.

If a provider came to our website there was an opportunity for them to log-in.

Q. Is that true of the current status of the website that the physicians can edit information about themselves?

A. Yes. Physicians can edit information about themselves.

Q. And do they?

A. Yes, they do.

Q. You monitor, I assume, when a physician edits?

A. Yes.

Q. And some physicians do come to your site and edit information about themselves?

A. Yes.

Q. And are they allowed to freely edit the information, change anything that's in their physician data?

A. No.

REDACTED

REDACTED

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08:47:01 14
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08:47:04 16
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08:47:32 22 Q. And you said physicians do come to
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08:47:38 24 A. Yes.
08:47:39 25 Q. -- correct?

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REDACTED

REDACTED

09:46:59 1 it.
09:46:59 2 THE WITNESS: I was waiting
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09:47:10 17 And even if there was -- I
09:47:10 18 think he may have been saying yes,
09:47:12 19 but to me.
09:47:13 20 MR. KANAN: Fair enough. Let
09:47:14 21 me just try and reask it.
09:47:16 22 MR. STIMPSON: Yeah, all
09:47:16 23 right.
09:47:16 24 BY MR. KANAN:
09:47:16 25 REDACTED

REDACTED

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09:48:02 15
09:48:04 16
09:48:08 17
09:48:11 18
09:48:12 19
09:48:13 20
09:48:21 21
09:48:26 22
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09:48:33 25

REDACTED

(Whereupon, document titled "Thinking About Physician Quality, Getting to a Fuller View", Bates-stamped MDX0012038 through 12285, was marked as West Exhibit 1 for identification, as of this date.)

Q. Okay.

Mr. West, let me show you what's been marked deposition Exhibit 1.

This is a document produced by MDx in this litigation. It is titled "Thinking About Physician Quality, Getting to a Fuller View."

You see that on the first page?

A. Yes.

Q. Have you ever seen this document before?

A. Not that I can recall.

Q. Have you seen something like it?

A. This is representative of a typical presentation document.

Q. Okay.

A. Without seeing the content I can't tell you.

15:11:27 1 MR. KANAN: 'Cause this is the
15:11:28 2 one we saw.
15:11:29 3 MR. STIMPSON: Uh-huh.
15:11:30 4 MR. KANAN: If there is one
15:11:31 5 that's the later version and if
15:11:34 6 there is not produce to us the
15:11:35 7 latest version of it.
15:11:41 8 Q. Okay. Mr. West, if you look at
15:11:42 9 Exhibit 19.
15:11:43 10 MR. STIMPSON: It helps if I
15:11:44 11 get an e-mail on this, I'll write it
15:11:46 12 down too, but it helps me to
15:11:48 13 remember.
15:11:49 14 MR. KANAN: We'll follow up.
15:11:50 15 MR. STIMPSON: I know you sent
15:11:51 16 me an e-mail earlier today.
15:11:53 17 MR. KANAN: We'll follow up.
15:12:06 18 Q. Have you seen Exhibit 19 before,
15:12:07 19 Mr. West?
15:12:09 20 A. Yes.
15:12:10 21 Q. And what is this document?
15:12:12 22 A. These are screen shots of the SQL
15:12:15 23 that was written to generate the counts for the
15:12:20 24 interrogatory response.
15:12:23 25 Q. And so the number at the bottom

15:12:24 1 here under "count" would be the number of
15:12:29 2 physicians for whom you have this -- the
15:12:31 3 particular data; is that correct?
15:12:36 4 A. That is correct.
15:12:37 5 REDACTED
15:12:40 6
15:12:44 7
15:12:47 8
15:12:51 9
15:12:54 10
15:12:58 11
15:13:00 12
15:13:02 13
15:13:07 14
15:13:09 15
15:13:12 16
15:13:19 17
15:13:27 18
15:13:30 19
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15:13:42 21
15:13:43 22
15:13:51 23
15:13:55 24
15:13:56 25

REDACTED

REDACTED

REDACTED

15:15:54 1
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15:16:02 7
15:16:04 8
15:16:06 9
15:16:09 10
15:16:11 11
15:16:11 12
15:16:13 13
15:16:15 14
15:16:15 15
15:16:16 16
15:16:17 17
15:16:22 18
15:17:29 19
15:17:29 20 If you would look at Exhibit 20,
15:17:34 21 Mr. West, have you ever seen this document
15:17:45 22 before?
15:17:51 23 A. I don't know at this point, not
15:17:53 24 that I'm aware of.
15:17:57 25 Q. Do you know what it is, site