EXHIBIT D

(Redacted Version of Dkt. # 404-9 and 405-9)

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

Exhibit 8

June 5, 2012 Deposition of Erika Boyer

(selected portions)

H I G H L Y C O N F I D E N T I A L

ATTORNEYS' EYES ONLY

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

----------x

HEALTH GRADES, INC.,

Plaintiff,

v. Civil Action No. 11-CV 00520

MDX MEDICAL, INC., d/b/a VITALS.COM,

Defendant.

----------x

Videotaped DEPOSITION of ERIKA BOYER, held at the offices of Sills Cummis & Gross, P.C., 30 Rockefeller Plaza, New York, New York 10112, on the 5th day of June 2012, commencing at 8:44 a.m., before Colette Cantoni, a Registered Professional Reporter and Notary Public of the State of New York, pursuant to Notice.

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Denver, Colorado 80202-5855

BY: JESUS M. VAZQUEZ, JR., ESQ.
(jvazquez@rothgerber.com)

-and-

MERCHANT & GOULD
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Denver, Colorado 80265-0100

BY: KIRSTIN L. STOLL-DeBELL, ESQ.
(kstolldebell@merchantgould.com)

SILLS, CILLIS & GROSS P.C.
Attorneys for Defendant
and the Witness
30 Rockefeller Plaza
New York, New York 10112

BY: SCOTT D. STIMPSON, ESQ.
(sstimpson@sillscummis.com)
-and-
LAUREN SIBER, ESQ. (P.M. Session)

ALSO PRESENT:

MICHAEL WAGNER, Summer Associate,
Merchant & Gould

PHILIP GLAUBERSON, Videographer

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BOYER

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11:00:48 1 off the top of my head.
11:00:49 2 Q Okay.
11:00:57 3 MR. VAZQUEZ: Okay. We are going to
11:00:58 4 take a quick pleas, please.
11:01:00 5 THE WITNESS: Okay.
11:01:01 6 MR. VAZQUEZ: Five minutes.
11:01:02 7 THE VIDEOGRAPHER: Going off the
11:01:03 8 record, the time is 11:03 a.m.
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11:24:58 22
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11:25:00 24
11:25:04 25

REDACTED

12:17:45 check for you.

12:17:46 MR. VAZQUEZ: Okay. Well, as

12:17:47 Ms. Boyer just testified, and I agree with her

12:17:49 100 percent, it looks like the date has been

12:17:52 redacted.

12:17:52 I don't understand why there's a

12:17:55 need to redact dates --

12:17:58 MR. STIMPSON: I'm checking.

12:17:59 MR. VAZQUEZ: -- and I'd ask you

12:18:00 simply if we could get documents -- I mean, we

12:18:02 just had document productions done Friday and

12:18:06 Thursday. We've not had a chance to review

12:18:08 those as you can understand since we're coming

12:18:11 out here. But this document is not in the

12:18:15 supplemental production, and so I just want to

12:18:19 make a record that we would like unredacted

12:18:22 PowerPoints. The dates are important at

12:18:25 least, I'm sure you're aware.

12:18:31 BY MR. VAZQUEZ:

12:18:31 Q So, Ms. Boyer, could we turn to,

12:18:33 please, page, it's a little hard to see on the

12:18:37 right-hand bottom corner, but it would be MDX

12:18:41 71959.

12:18:53 A Can you provide me a visual on that.

12:18:55 REDACTED

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REDACTED

MR. STIMPSON: Could you just wait

12:21:16 1 for one second. Because while that person is
12:21:19 2 here, I have to sign for it.
12:21:21 3 (Pause.)
12:22:10 4 MR. VAZQUEZ: Let's do this. I'm
12:22:11 5 going to go off the record. Even though
12:22:14 6 there's a question pending, I'll just re-ask
12:22:16 7 it after lunch, okay?
12:22:17 8 THE WITNESS: That's fine.
12:22:18 9 MR. VAZQUEZ: Okay.
12:22:19 10 THE VIDEOGRAPHER: We're going off
12:22:20 11 the record, the time is 12:24 p.m.
12:22:22 12 (Whereupon, at 12:24 p.m., a
12:22:26 13 luncheon recess was taken.)
01:00:54 14 (Whereupon, Boyer Exhibit Numbers 5
01:00:57 15 through 14 were marked for identification.)
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01:41:51 A F T E R N O O N S E S S I O N

01:41:53 (Time noted: 1:44 p.m.)

01:42:05 THE VIDEOGRAPHER: We are back on the record, the time is 1:44 p.m.

E R I K A B O Y E R,

having been previously duly sworn, was examined and testified further as follows:

EXAMINATION

BY MR. VAZQUEZ: (Continued.)

01:42:15 Q And, Ms. Boyer, the videographer just informed us, we are back on the record for the deposition.

01:42:20 REDACTED

REDACTED

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