

**COURT OF CHANCERY
OF THE
STATE OF DELAWARE**

JOSEPH R. SLIGHTS III
VICE CHANCELLOR

417 S. State Street
Dover, Delaware 19901
Telephone: (302) 739-4397
Facsimile: (302) 739-6179

January 7, 2019

Adam W. Poff, Esquire
Young Conaway Stargatt & Taylor, LLP
1000 North King Street
Wilmington, DE 19801

Bruce W. McCullough, Esquire
Bodell Bove, LLC
1225 North King Street
Wilmington, DE 19801

Re: *Bako Pathology LP, et al. v. Bakotic, et al.*
C.A. No. 2018-0520-JRS

Dear Counsel:

I have reviewed the submissions in connection with Defendants' Motion for Order Compelling Discovery, for Sanctions and for Attorney's Fees and Costs of Litigation (the "Motion to Compel") (DI 152), and Plaintiffs' Motion for Protective Order (DI 147) (together, the "Motions"). For reasons I will explain on the record at the outset of the January 23, 2019 hearing, both Motions are denied.

Suffice it to say for now, the Motion to Compel follows Defendants' imprecise approach to expedited discovery, where no meaningful effort was made to work with Plaintiffs' counsel to identify specific records custodians or to focus searches for the

Adam W. Poff, Esquire
Bruce W. McCullough, Esquire
January 7, 2019
Page 2

collection of documents. This lack of precision left Plaintiffs to do their best to discern what Defendants were looking for in the document production. Plaintiffs have represented that they have produced all responsive documents that exist and Defendants have failed to identify what specifically is missing from that production. For these reasons, the Motion to Compel is DENIED.

As for the Motion for Protective Order, Defendants served the Notice of Deposition for Lois Adams following Plaintiffs' filing of an affidavit from Ms. Adams just prior to the expedited discovery cut-off. While Defendants, perhaps, could have moved more quickly in seeking Ms. Adams's deposition, I am satisfied they moved quickly enough and that Ms. Adams's deposition should be taken prior to the January 23 hearing. To the extent Defendants believe that Ms. Adams's deposition yields evidence relevant to the matters to be addressed at the January 23 hearing, they may lodge the deposition transcript with the Court in advance of the hearing. For these reasons, the Motion for Protective Order is DENIED.

Neither party shall be entitled to fees or costs in connection with these Motions.

Adam W. Poff, Esquire
Bruce W. McCullough, Esquire
January 7, 2019
Page 3

Given these rulings, the telephonic hearing on the Motions scheduled for January 11, 2019, at 11:00, is no longer necessary and is hereby cancelled.

IT IS SO ORDERED.

Very truly yours,

/s/ Joseph R. Slights III