

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
**Judge Philip A. Brimmer**

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

HEALTH GRADES, INC.,

Plaintiff,

v.

MDX MEDICAL, INC.,  
doing business as Vitals.com,

Defendant.

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**ORDER SETTING CASE FOR TRIAL**

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This matter has been scheduled for a seven-day jury trial on the docket of Judge Philip A. Brimmer in the U.S. District Courthouse, Courtroom A701, 7th Floor, 901 19th Street, Denver, Colorado, to commence on **February 3, 2014 at 8:00 a.m.**

A Trial Preparation Conference is set for **January 17, 2014 at 1:30 p.m.**

Counsel who will try the case shall attend in person.

In the absence of a previously-imposed deadline, all motions to exclude expert testimony must be filed **sixty days** before the trial preparation conference.

**Fourteen days** before the trial preparation conference, counsel and any pro se party shall submit proposed jury instructions and verdict forms. The jury instructions shall identify the source of the instruction and supporting authority, e.g. § 103, Fed. Jury Practice, O'Malley, Grenig, and Lee (5th ed.). The parties shall submit their instructions and verdict forms both via CM/ECF and by electronic mail to

[brimmer\\_chambers@cod.uscourts.gov](mailto:brimmer_chambers@cod.uscourts.gov) in Word Perfect format (Word Perfect 12 or a

later version) or Word format. Verdict forms shall be submitted in a separate file from jury instructions. Within the jury instruction file, each jury instruction shall begin on a new page.

Each instruction should be numbered (e.g., “Plaintiff’s Instruction No. 1”) for purposes of making a record at the jury instruction conference. The parties shall attempt to stipulate to the jury instructions, particularly “stock” instructions and verdict forms.

In diversity cases where Colorado law applies, please submit instructions and verdict forms that conform to CJI-Civ 4th.

**Seven days** before the trial preparation conference, the parties shall file via CM/ECF (1) their proposed *voir dire* questions; (2) their witness lists; and (3) their exhibit lists. Forms of the witness and exhibit lists are found at <http://www.cod.uscourts.gov/Judges/Judges.aspx>. Please add at least ten additional blank rows at the end of the exhibit list to accommodate any additional exhibits that may be introduced at trial.

To the extent the deadlines and other provisions of this order conflict with this Court’s Practice Standards, this order shall control.

The parties shall be prepared to address the following issues at the Trial Preparation Conference:

- 1) jury selection;
- 2) sequestration of witnesses;
- 3) timing of presentation of witnesses and evidence;
- 4) anticipated evidentiary issues;

- 5) any stipulations as to fact; and
- 6) any other issue affecting the duration or course of the trial.

DATED March 18, 2013.

BY THE COURT:

s/Philip A. Brimmer  
PHILIP A. BRIMMER  
United States District Judge