

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
JUDGE RAYMOND P. MOORE**

Courtroom Deputy: Nick Richards
Court Reporter: Tammy Hoffschildt

Date: December 18, 2013

CASE NO. 11-cv-00520-RM-BNB

Parties

Counsel

HEALTH GRADES, INC.,

Plaintiff,

v.

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

Defendant.

Gregory B. Kanan
Jesus Manuel Vazquez, Jr.
Kris John Kostolansky
Kirstin L. Stoll-DeBell

Scott David Stimpson
Terence M. Ridley
Trent S. Dickey

COURTROOM MINUTES

DAUBERT HEARING

COURT IN SESSION: 9:08 a.m.

Court calls case. Appearances of counsel.

Daubert Hearing called regarding Health Grades, Inc.'s Motion to Partially Exclude Expert Testimony of Dr. Richard G. Cooper Pursuant to Fed. R. Evid. 403 and 702, and *Daubert v. Merrill Dow Pharms., Inc.*, 509 U.S. 579 (1993) [Doc. No. 338, filed October 22, 2012, public entry No. 342], MDX Medical, Inc.'s Motion to Preclude Any Testimony From Health Grades, Inc.'s Expert Dr. Greenspun [Doc. No. 349, filed October 25, 2012], and MDX Medical, Inc.'s Motion to Exclude Expert Testimony of Mr. David Hall Pursuant to Fed. R. Evid. 403 and 702, and *Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579 (1993) [Doc. No. 374, filed November 2, 2012].

9:12 a.m. Oral argument by Mr. Stimpson regarding MDX Medical, Inc.'s Motion to Preclude Any Testimony From Health Grades, Inc.'s Expert Dr. Greenspun [349].

9:24 a.m. Response by Mr. Kostolansky.

9:44 a.m. Reply by Mr. Stimpson.

ORDERED: MDX Medical, Inc.'s Motion to Preclude Any Testimony From Health Grades, Inc.'s Expert Dr. Greenspun [349] is **DENIED** as stated on the record.

9:47 a.m. Oral argument by Mr. Dickey regarding MDX Medical, Inc.'s Motion to Exclude Testimony of Mr. David Hall Pursuant to Fed. R. Evid. 403 and 702, and *Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579 (1993) [374].

COURT IN RECESS: 10:14 a.m.

COURT IN SESSION: 10:24 a.m.

10:24 a.m. Response by Mr. Kanan.

10:53 a.m. Reply by Mr. Dickey.

ORDERED: MDX Medical, Inc.'s Motion to Exclude Testimony of Mr. David Hall Pursuant to Fed. R. Evid. 403 and 702, and *Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579 (1993) [374] is **DENIED** as stated on the record.

11:05 a.m. Oral argument by Mr. Kostolansky regarding Health Grades, Inc.'s Motion to Partially Exclude Expert Testimony of Dr. Richard G. Cooper Pursuant to Fed. R. Evid. 403 and 702, and *Daubert v. Merril Dow Pharms., Inc.*, 509 U.S. 579 (1993) [338, public entry 342].

11:34 a.m. Response by Mr. Stimpson.

11:55 a.m. Reply by Mr. Kostolansky.

ORDERED: Health Grades, Inc.'s Motion to Partially Exclude Expert Testimony of Dr. Richard G. Cooper Pursuant to Fed. R. Evid. 403 and 702, and *Daubert v. Merril Dow Pharms., Inc.*, 509 U.S. 579 (1993) [338, public entry 342] is **DENIED IN PART** as stated on the record.

ORDERED: The parties shall submit briefs not to exceed 10 pages in length regarding the issue of verification on or before December 31, 2013.

ORDERED: The parties shall submit additional briefs not to exceed 5 pages in length regarding the Markman issue raised by Mr. Stimpson on or before December 31, 2013.

COURT IN RECESS: 12:07 p.m.

Total in court time: 02:49
Hearing concluded