

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BOARD OF REGENTS OF THE)
UNIVERSITY OF NEBRASKA, and)
UNEMED CORPORATION,)

Plaintiffs,)

v.)

SIEMENS HEALTHCARE)
DIAGNOSTICS, INC.,)

Defendant.)

4:09CV3075

MEMORANDUM AND ORDER

A telephonic conference was held today to discuss the status of Defendant Siemens Healthcare Diagnostics, Inc.’s objections to the plaintiffs’ July 9, 2010 Revised Subpoena to Alegent Health for the Production of Documents and Inspection of Premises, (filing no. 74), and July 7, 2010 Subpoena to Alegent Health to Testify at Deposition, (filing no. 75). Based on the representations of counsel, the defendant and Alegent produced approximately 800 pages of paper discovery responses on August 20, 2010; the parties are actively engaged in determining the parameters of any electronic discovery to be produced; and the parties continue to discuss who should be deposed as the proper Rule 30(b)(6) representative with the hopes of possible limiting this discovery to a single custodian of records.

The parties have further assured the court that the ongoing and unresolved discovery issues will not affect the court’s schedule or the parties’ preparation for the Markman hearing to be held on Thursday, August 26, 2010. However, the plaintiffs believe expert disclosure deadlines for future case progression may need to be continued. The parties were reminded the progression schedule in this case is complex with several interdependent dates, and the disruption of any of these dates may impact the case progression and the court’s calendar. This case will be closely monitored. A status conference should be requested on

motion, or may be scheduled *sua sponte*, should it appear discovery and progression delays may threaten the September 11, 2011 trial setting.

Accordingly,

IT IS ORDERED:

1) The parties shall continue to actively engage in good faith to resolve their ongoing discovery issues. A motion shall be promptly filed if an impasse arises as to any discovery issue, or if any deadlines must be continued or changed in the court's progression schedule for this case.

2) The objections, (filing nos. 74 and 75), are denied without prejudice to filing motions, as needed, under paragraph (1) of this order.

DATED this 23rd day of August, 2010.

BY THE COURT:

s/ Cheryl R. Zwart

United States Magistrate Judge