

**IN THE CIRCUIT COURT OF WOOD COUNTY, WEST VIRGINIA  
BUSINESS COURT DIVISION**

HIGHMARK WEST VIRGINIA INC.,

Plaintiff

v.

CIVIL ACTION NO. 18-C-271

Presiding Judge: Shawn D. Nines

Resolution Judge: Christopher Wilkes

MEDTEST LABORATORIES, LLC,  
BRICE TAYLOR, BILLY TAYLOR, MUHAMMAD  
AMJAD, PH. D., MICHAEL CHEN, PH.D.,  
JAMES TAYLOR, CENEGEN, LLC, and  
VITAS LABORATORY LLC,

Defendants.

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MEDTEST LABORATORIES, LLC,

Counterclaim and Third-Party Plaintiff,

v.

HIGHMARK WEST VIRGINIA INC., et al.,

Counterclaim and Third-Party Defendants.

ENTERED  
D.B. No. \_\_\_\_\_  
FILED \_\_\_\_\_  
MAR 18 2022  
CELESTE RIDGWAY  
CLERK, CIRCUIT COURT

**ORDER**

On the 21st day of January, 2022, the Court held a status conference in this matter via Microsoft Teams. Stuart McMillan and Peter Markham of Bowles Rice LLP appeared on behalf of the Plaintiff, Highmark West Virginia Inc. ("Highmark WV"). Patrick Sheehan of Whatley Kallas, LLP and Samuel Hrko of Bailey Glasser PLLC appeared on behalf of Defendants MedTest Laboratories, LLC ("MedTest"); Billy Taylor; Brice Taylor; James Taylor; Vitas Laboratory, LLC ("Vitas"); and Cenegen, LLC ("Cenegen") (collectively, the "MedTest Parties"). Joshua Lowther of Lowther Walker LLC also appeared on behalf of Defendant Billy Taylor. Scott H. Kaminski

of Ray, Winton & Kelley, PLLC appeared on behalf of Defendant Michael Chen, Ph.D. Defendant Muhammad Amjad, Ph.D. appeared *pro se*.

At the Status Conference and in an Order dated January 28, 2022, the Court directed present counsel for the MedTest Parties (“MedTest Counsel”), to submit a supplemental memorandum in support of their Motion to Withdraw as Counsel for MedTest Laboratories, LLC; Billy Taylor; Brice Taylor; James Taylor; Michael Chen, Ph.D.; Vitas Laboratory, LLC; and Cenegen, LLC (the “Motion to Withdraw”), together with supporting affidavits. On January 27, 2022, MedTest Counsel submitted a Supplemental Memorandum of Law In Support of Motion to Withdraw as Counsel for MedTest Laboratories, LLC; Billy Taylor; Brice Taylor; James Taylor; Michael Chen, Ph.D.; Vitas Laboratory, LLC; and Cenegen, LLC (the “Supplemental Memorandum”), as well as the Affidavit of Patrick J. Sheehan (the “Sheehan Affidavit”) and the Affidavit of Joshua S. Lowther (the “Lowther Affidavit”).

After considering the Supplemental Memorandum, the Sheehan Affidavit and the Lowther Affidavit, the Court finds that there are three issues that prevent MedTest Counsel from continuing to effectively serve as counsel for the MedTest Parties:

*First*, under the relevant retainer agreement, Defendant Billy Taylor, who presently is incarcerated in Arkansas pending trial on federal criminal charges of health care fraud under 18 U.S.C. § 1347 and 18 U.S.C. § 2, is the primary contact authorized to coordinate any and all actions on behalf of the MedTest Parties, including the corporate defendants, in this litigation. *See* Lowther Affidavit, ¶ 3; Sheehan Affidavit, ¶ 4. However, the Court finds that, as a practical matter, Mr. Taylor’s incarceration, which drastically limits his ability to communicate with MedTest Counsel about this civil litigation, effectively prevents him from doing so. *See* Lowther Affidavit, ¶¶ 4-7.

*Second*, the Court finds that Mr. Taylor's indictment and incarceration present irreconcilable conflicts of interest between him and the other MedTest Parties. In this regard, there is now a significant risk that MedTest Counsel's representation of one or more of the MedTest Parties will be materially limited by their responsibilities to the other MedTest Parties, as *either* current or former clients. *See* Sheehan Affidavit, ¶ 8; W.Va. R. Prof. R. 1.7(a)(2). Mr. Taylor's inability to participate in this litigation from jail in any meaningful way also places him in a direct and present conflict of interest with the other MedTest Parties, particularly the corporate defendants, which have appointed him to advise MedTest Counsel as to the conduct of this litigation and cannot speak for themselves. As such, MedTest Counsel no longer reasonably believe that they can provide competent and diligent representation to the MedTest Parties. *See* Sheehan Affidavit, ¶ 9; W.Va. R. Prof Resp. 1.7(b)(1).

*Third*, the Court finds that the MedTest Parties' failure to pay MedTest Counsel has already caused them significant financial hardship and requiring them to continue their representation of the MedTest Parties would place an undue financial burden on them. *See* Sheehan Affidavit, ¶¶ 10-11.

Based on the foregoing, it is **ORDERED** and **ADJUDGED** that, for good cause shown, the Motion to Withdraw filed by Whatley Kallas, LLP; Bailey Glasser LLP; and Lowther Walker LLC, is hereby **GRANTED**.

Individual Defendants Billy Taylor, James Taylor, and Brice Taylor, shall have 30 days from the date of this Order to retain substitute counsel; otherwise, individual Defendants shall be deemed to be proceeding in a *pro se* capacity.

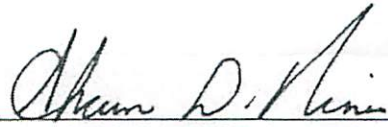
Corporate entity parties MedTest Laboratories, LLC, Vitas Laboratory, LLC, and Cenegen, LLC, now have no counsel of record in this civil action. Pursuant to W.Va. Code §30-2-4,

requiring a business entity be represented by legal counsel licensed in the State of West Virginia to appear in circuit court, the Court ORDERS this matter STAYED for thirty (30) days while Defendants MedTest Laboratories, LLC, Vitas Laboratory, LLC, and Cenegen, LLC obtain legal counsel licensed in the State of West Virginia to represent them in this action. The Court notes that the undersigned, in its order entered December 6, 2021, directed Defendants to obtain counsel. See Ord., 12/6/21. Furthermore, all parties are now on notice that if no counsel appears of record for corporate Defendants MedTest Laboratories, LLC, Vitas Laboratory, LLC, and Cenegen, LLC within thirty (30) days of entry of this order, default judgment may be entered against them.

The Clerk shall enter the foregoing and forward attested copies hereof to the Business Court Central Office at Business Court Division, 380 West South Street, Suite 2100, Martinsburg, West Virginia, 25401, as well as the parties and counsel listed below. The Court also directs that all further pleadings, motions, notices, correspondence, and other documents shall be served directly on Defendants, whose last-known contact information is listed below.

**IT IS SO ORDERED.**

ENTERED this 18<sup>th</sup> day of March, 2022.

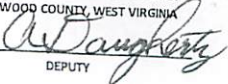
  
JUDGE SHAWN D. NINES  
JUDGE OF THE WEST VIRGINIA  
BUSINESS COURT DIVISION

**Forward attested copies to:**

Billy Taylor  
Washington County Detention Center  
1155 W Clydesdale Drive Fayetteville, AR 72701

MedTest Laboratories, LLC  
c/o Billy Taylor

STATE OF WEST VIRGINIA  
COUNTY OF WOOD, TO-WIT:  
I, CELESTE RIDGWAY, CLERK OF THE CIRCUIT COURT  
OF WOOD COUNTY, WEST VIRGINIA, HEREBY  
CERTIFY THAT THE FOREGOING IS A TRUE AND COMPLETE  
COPY OF AN ORDER ENTERED IN SAID COURT, ON THE  
18 DAY OF March, 2022  
AS FULLY AS THE SAME APPEARS TO ME OF RECORD.  
GIVEN UNDER MY HAND AND SEAL OF SAID CIRCUIT  
COURT, THIS 18 DAY OF MARCH, 2022.

Celeste Ridgway  
CLERK OF THE CIRCUIT COURT OF  
WOOD COUNTY, WEST VIRGINIA  
BY:   
DEPUTY

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