

**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.

**ORDER GRANTING PLAINTIFF HIGHMARK WEST VIRGINIA INC.'S  
MOTIONS *IN LIMINE***

On the 29th day of April 2022, Plaintiff Highmark West Virginia Inc. ("Highmark WV"), by counsel Stuart A. McMillan, Esq. and Peter G. Markham, Esq. of Bowles Rice LLP, presented six Motions *in Limine* to the Court in connection with the Pre-Trial Conference in this action. Defendants James ("Jimbo") Taylor, Jr. and Brice Taylor appeared at the Pre-Trial Conference *pro se*. Scott H. Kaminski, Esq. of Ray, Winton & Kelley PLLC appeared on behalf of defendant Michael Chen, Ph. D. Defendants MedTest Laboratories, LLC

ENTERED  
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5/13/22 CCX9 to Bowles Rice; B. Taylor; Med Test.  
Vitas; J. Taylor; B. Taylor; Cenegem; S. Kaminski; Muhammad.  
MAY 12 2022  
CELESTE RIDGWAY  
CLERK CIRCUIT COURT

Cenegen, LLC (“Cenegen”), Vitas Laboratory LLC (“Vitas”), and Muhammad Amjad, Ph. D. did not appear at the Pre-Trial Conference or otherwise file responses contesting Highmark WV’s Motions *in Limine*.

Highmark WV presented argument on the following six Motions *in Limine*:

1. Motion *in Limine* to strike MedTest’s designated experts;
2. Motion *in Limine* to preclude evidence and argument that other Blue Plans have reimbursed Highmark WV for its requested damages of approximately \$6.4 million;
3. Motion *in Limine* to preclude evidence and argument that MedTest is a “group” or “affiliated” provider under its Network Agreement with Highmark WV;
4. Motion *in Limine* to preclude evidence and argument that MedTest legitimately “referred” any testing services to other laboratories;
5. Motion *in Limine* to preclude evidence and argument that MedTest operated anywhere other than its Putnam County, West Virginia, location; and
6. Motion *in Limine* to preclude evidence and argument that Highmark WV ratified MedTest’s conduct by paying MedTest’s claims for reimbursement.

Based on the arguments of counsel, the Motions *in Limine*, the evidence of record in support thereof, and the pertinent authorities, this Court hereby **GRANTS** Highmark WV’s Motions *in Limine* and **ORDERS** as follows:

1. The experts designated by the MedTest Defendants on December 16, 2019, are hereby stricken, and any argument or evidence referencing their opinions is excluded from trial. The MedTest Defendants failed to make their designated expert witnesses available for deposition and have represented to counsel for Highmark WV that expert testimony will not be relied upon at trial.
2. Evidence and argument that other Blue Cross Blue Shield Plans have reimbursed Highmark WV for its requested damages is precluded from trial. It is the law of

this case that Highmark WV's eventual "reimbursement by the other Blue entities via private agreement and business structure does not change the fact that [Highmark WV] has suffered a direct, pocketbook injury by paying [MedTest's claims]." *See* Or. Den. MedTest's Mot. for Partial Summ. J. at 10 (Jun. 10, 2021).

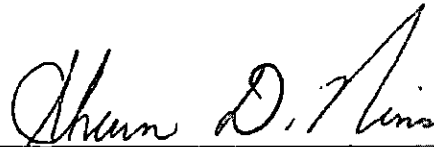
3. Evidence and argument that MedTest was a "group" or "affiliated" provider is precluded from trial for lack of foundation, irrelevance, and no probative value. Such evidence is wholly unsupported by the evidence of record presented by Highmark WV and the terms of its Network Agreement with MedTest.
4. Evidence and argument that MedTest's claims for reimbursement submitted to Highmark WV were based on services MedTest referred to other laboratories is precluded from trial. Such evidence is wholly unsupported by the evidence of record presented by Highmark WV.
5. Evidence and argument that MedTest operated in locations other than its Putnam County, West Virginia, location is precluded from trial. In deposition testimony, MedTest's corporate representative indicated that MedTest operated in other locations in different states, including Arkansas. This testimony is wholly at odds with the record before this Court and it has been directly contradicted by MedTest's admissions in discovery.
6. Evidence or argument suggesting that Highmark WV's payments to MedTest on its claims for reimbursement for services rendered indicates Highmark WV's approval or ratification of MedTest's billing practices and claims submissions is precluded

from trial. The record reflects that Highmark WV did not ratify or approve MedTest's claims for reimbursement.

The Court notes the exceptions and objections of all parties to any adverse rulings. This Court **DIRECTS** the Clerk to enter this Order and forward attested copies to the Business Court Central Office at Business Court Division, 380 West South Street, Suite 2100, Martinsburg, West Virginia 25401, as well as to the parties and counsel listed below.

**IT IS SO ORDERED.**

**ENTERED** this 11th day of May, 2022.



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

**Forward attested copies to:**

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