

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES



In the Matter of)
)
LabMD, Inc.,)
 a corporation,)
 Respondent.)
_____)

PUBLIC

Docket No. 9357

ORIGINAL

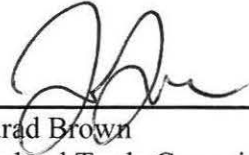
COMPLAINT COUNSEL’S MOTION FOR *IN CAMERA* TREATMENT OF RX505

Pursuant to Rule 3.45 of the Commission’s Rule of Practice, 16 C.F.R. § 3.45, Complaint Counsel respectfully request that the Court grant permanent *in camera* treatment to RX505. RX505 is the transcript of David Lapides’ deposition, offered into evidence by Respondent, LabMD, Inc. RX505 is identical to CX0723, to which the Court granted permanent *in camera* treatment because it contained sensitive personal information about a former LabMD employee. *See* Order Granting Joint Motions for *In Camera* Treatment of Certain Exhibits Containing Sensitive Personal Information at 2 (May 6, 2014) (“May 6, 2014 Order”). The parties omitted RX505 from their April 22, 2014 Joint Motion for *In Camera* Treatment of Certain Former Employee Exhibits by mistake. As a result, RX505 is public, even though the same document admitted as CX0723 has been granted *in camera* treatment. And as a duplicate to CX0723, RX505 contains the same sensitive personal information that the Court found warranted permanent *in camera* treatment. *See* May 6, 2014 Order. Because it contains the same personal information, and the Court previously granted the identical document permanent *in camera* treatment, Complaint Counsel requests that the Court grant permanent *in camera* treatment to

RX505.¹ Complaint Counsel met and conferred with counsel for LabMD on the subject of this Motion, and counsel for LabMD advised Complaint Counsel that LabMD would not oppose the Motion. *See* Meet and Confer Statement (attached as Exhibit A).

Dated: July 29, 2015

Respectfully submitted,



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Complaint Counsel

¹ The Court previously ordered a public version of RX505 (RX505-A) submitted into the record that redacts the sensitive personal information therein. Order Granting Joint Motion to Accept Redacted, Public Versions of *In Camera* Exhibits into the Record at 2 (July 15, 2015). The parties included RX505 in the motion seeking that relief, mistakenly believing RX505 to have previously been granted *in camera* treatment.

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**[PROPOSED] ORDER GRANTING MOTION FOR
IN CAMERA TREATMENT OF RX505**

Upon consideration of the Complaint Counsel’s Motion for *In Camera* Treatment of
RX505, it is hereby

ORDERED, that RX505 is granted permanent *in camera* treatment.

ORDERED:

D. Michael Chappell
Chief Administrative Law Judge

Date:

CERTIFICATE OF SERVICE

I hereby certify that on July 29, 2015, I caused the foregoing document to be filed electronically through the Office of the Secretary's FTC E-filing system, which will send notification of such filing to:

Donald S. Clark
Secretary
Federal Trade Commission
600 Pennsylvania Avenue, NW, Room H-113
Washington, DC 20580

I also certify that I caused a copy of the foregoing document to be transmitted *via* electronic mail and delivered by hand to:

The Honorable D. Michael Chappell
Chief Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Avenue, NW, Room H-110
Washington, DC 20580

I further certify that I caused a copy of the foregoing document to be served *via* electronic mail to:

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CERTIFICATE FOR ELECTRONIC FILING

I certify that the electronic copy sent to the Secretary of the Commission is a true and correct copy of the paper original and that I possess a paper original of the signed document that is available for review by the parties and the adjudicator.

July 29, 2015


By: 
Jarad Brown
Federal Trade Commission
Bureau of Consumer Protection

Exhibit A

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**STATEMENT REGARDING MEET AND CONFER PURSUANT TO
RULE 3.22(g) AND ADDITIONAL PROVISION 4 OF THE SCHEDULING ORDER**

Complaint Counsel respectfully submits this Statement, pursuant to Federal Trade Commission Rule of Practice 3.22(g) and Additional Provision 4 of the Scheduling Order. Prior to filing the attached Motion for *In Camera* Treatment of RX505, Complaint Counsel Jarad Brown met and conferred with counsel for Respondent Patrick Massari by email on July 28 and 29, 2015. Mr. Massari stated that Respondent would not oppose the attached Motion.

Dated: July 29, 2015

Respectfully submitted,



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