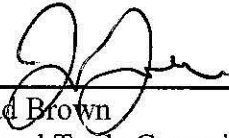


The Commission should deny LabMD's Motion for Leave because it is an impermissible reply seeking to bolster the Motion to Disqualify with additional arguments. *See* 16 C.F.R. 3.22(d) (reply permitted only with leave). A notice of supplemental authority may not advance new argument. *E.g.*, *Atkins v. Capri Training Ctr., Inc.*, No. 2:13-cv-06820 (SDW), 2014 WL 4930906, at *10 (D.N.J. Oct. 1, 2014); *United Broad. Corp. v. Miami Tele-Comms., Inc.*, 140 F.R.D. 12, 13 (S.D. Fla. 1991); *U.S. v. Khorozian*, 333 F.3d 498, 506 n.7 (3d Cir. 2003) (28(j) context). But LabMD's Notice does just that: it advances new arguments not made in LabMD's Motion to Disqualify. *See* Motion for Leave, Exhibit 1 at 1-2; Motion to Disqualify at 8-9. For this reason, the Commission should deny LabMD's Motion for Leave.

Dated: May 21, 2015

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on May 21, 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
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Federal Trade Commission
600 Pennsylvania Avenue, NW, Room H-113
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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:

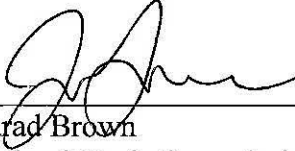
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CERTIFICATE FOR ELECTRONIC FILING

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.

May 21, 2015

By: 
Jarad Brown
Federal Trade Commission
Bureau of Consumer Protection