STATE OF MINNESOTA **DISTRICT COURT**

COUNTY OF HENNEPIN **FOURTH JUDICIAL DISTRICT**

Medical Scanning Consultants, P.A., d/b/a Center for Diagnostic Imaging,

Plaintiff,

v.

Robert H. Long, M.D.,

Defendant.

Judge Diane B. Bratvold

Case Type: Contract

ORDER GRANTING PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER

Court File No. 27-CV-15-17177

This matter came on for hearing before the Honorable Diane B. Bratvold on October 5, 2015 upon Plaintiff's Motion for Temporary Restraining Order. Arthur Boylan, Esq., appeared on behalf of Plaintiff Medical Scanning Consultants, P.A., d/b/a Center for Diagnostic Imaging ("CDI"). Ansis Viksnins and Carrie Ryan Gallia, Esqs., appeared on behalf of Defendant Dr. Robert H. Long, who was also present at the hearing. Based on the parties' submissions, the arguments of counsel, and the file, the Court makes the following:

FINDINGS OF FACT

1. Plaintiff Medical Scanning Consultants, P.A., d/b/a Center for Diagnostic Imaging is a Minnesota professional corporation and has its principal place of business in St. Louis Park, Hennepin County, Minnesota. CDI is primarily a radiology medical practice, part of a larger national provider network for medical imaging and related services that operates in over 40 states. CDI has a number of service locations in Minnesota; its market extends to the greater Minneapolis/St. Paul Metropolitan area.

2. Dr. Long is a Minnesota resident who now resides in Minnetonka, Hennepin County, Minnesota. Dr. Long received his medical degree in 2001, completed residencies in internal medicine and in physical medicine and rehabilitation; he is licensed to practice medicine

in the State of Minnesota. He is a board-certified physiatrist. The focus of Dr. Long's medical practice is pain management.

3. In the spring of 2012, CDI decided to expand its services by developing a comprehensive pain treatment program called "CDI Pain Care." The program provided pain management support in addition to the interventional pain procedures CDI already provided.

4. On May 10, 2012, CDI extended a written offer to Dr. Long for full-time employment starting on September 1, 2012 as a board certified physiatrist for the the Twin Cities Practice Group. The offer was conditioned in part on acceptance of CDI's standard a non-compete clause. (Johnson Aff., Ex. A.)

5. Dr. Long accepted the offer on May 15, 2012 by signing the offer letter.

6. CDI sent an employment agreement to Dr. Long on May 31, 2012; this agreement included a non-compete clause.

7. Dr. Long expressed concerns that the non-compete clause could constrain his future practice if CDI stopped providing the CDI Pain Care, i.e., if the CDI Pain Care program did not succeed. In response, CDI added a clause exempting Dr. Long from the non-compete covenant if CDI stopped providing comprehensive pain management services within three years following the effective date of the Agreement, i.e., when the agreement was signed by the parties.

8. Dr. Long signed the Employment Agreement ("Agreement") on June 7, 2012, which was later executed by Blake Johnson, M.D., on behalf of CDI. (Johnson Aff., Ex. B.)

9. Article 8 of the Agreement governs the restrictive covenants, which includes the non-compete clause:

> 8.1) Non-Compete. In consideration of the Employer's employment of Physician, Physician agrees that, during the term of Physician's employment by Employer and for a period of one (1) year immediately after the termination of Physician's employment with employer for any reason, Physician will not alone, or in any capacity with another firm, individual or person:

> (a) Provide material, regular professional physiatry/pain management services, directly or indirectly, in any capacity, individually or otherwise anywhere within the Restricted Area; or
>
> (b) In any way, directly or indirectly, interfere or attempt to interfere with relationships that Employer or a CDI Party has with any of its patients, referring physicians, other medical providers, vendors, payers or other customers (including labor unions or brokers) who are doing business or have done business with Employer within the prior twelve (12) months.

Clause 1.5 of the Agreement defines "Material, regular services" as "all physiatry/pain management services excluding performing directly, in any combination, an average of ten (10) or fewer clinic visits or procedures per month in the context of routine non-investigational/nonresearch care for the prior twelve (12) months." Clause 1.7 of the Agreement defines "Restricted Area" as:

> [T]he Minnesota counties of Anoka County, Carver County, Chisago County, Dakota County, Hennepin County, Ramsey County, Scott County, Washington County, Wright County, Stearns County and Benton County; (ii) the Wisconsin counties of St. Croix County and Pierce County; and (iii) within a twenty-five (25) mile radius of any additional MSC location or facility at which Physician is providing Material, regular services (as defined above), or did provide Material, regular services, during the one (1) year.

10. Article 5 of the Agreement governs termination of employment, which provides in relevant part:

> 5.1) Termination. Physician's employment pursuant to this Agreement shall terminate as follows:
>
> (a) By mutual agreement of the parties;
>
> (b) Immediately upon the death of Physician;
>
> (c) Immediately upon written notice by Employer if Physician, with or without reasonable accommodation, if physically or mentally unable to perform the essential functions of Physician's position for a period of at least thirty (30) consecutive days.
>
> (d) For any reason, upon ninety (90) days' written notice from either party to the other[.]

The termination article further provides:

> 5.2) Continuation of Performance of Services After Notice of Termination. In the event of termination of employment of Physician under the provisions of Section 5.1(d) above, Employer, in its sole discretion, shall determine the date within the notice period on which Physician is to discontinue performing services for Employer. At all times during the notice period, Physician shall consult with Employer as to matters in which Physician was involved.

11. Dr. Long began working for CDI in September, 2012.

12. CDI hired Dr. Long to lead CDI Pain Care. (Johnson Aff.) This is supported by Dr. Long's Employment Agreement, which states he was paid a "program development incentive payment" of $50,000 for the first year.

13. According to correspondence sent to physicians in the area, Dr. Long was listed as leading the new CDI Pain Care program. (Johnson Aff., Ex. C.) Jennifer Groben, a CDI Regional Sales Director who worked with Dr. Long, described CDI Pain Care and Dr. Long as being actively promoted and marketed beginning in September 2012. A number of promotional materials were distributed to CDI service locations throughout the Minnesota region. (Groban Aff., Exs. A, B.)

14. Dr. Long actively marketed CDI Pain Care. He conducted meetings with individual physicians and chiropractors, and presented to larger groups of medical and educational professionals. According to CDI records, Dr. Long spoke on the CDI Pain Care program at approximately thirty-five events from October 2012 through June 2013. (Groban Aff.) During this time, Dr. Long had access to CDI's sales and marketing initiatives. Dr. Long also had access to CDI's referring physician network, in addition to confidential financial information, strategic plans, and sales/ marketing plans. (Groban Aff.; Johnson Aff.)

15. CDI decided to terminate Dr. Long's employment in September, 2014. CDI provided oral notice of immediate termination on September 25, 2014 and escorted Dr. Long from the facility. (Johnson Aff., Long Aff.)

16. A written notice of termination was personally delivered to Dr. Long on the same

day. (Johnson Aff., Ex. D.) The written notice stated:

> This letter constitutes a written notice of termination of your employment pursuant to Section 5.1(d) of your Employment Agreement with Medical Scanning Consultants, PA ("MSC"). Unless we mutually agree otherwise, your last date of employment with MSC will be 90 days from today's date, or December 23, 2014.

The written notice stated that CDI expected Dr. Long to "remain available to consult on patient matters [in] which you were involved, to the extent requested by MSC during this 90 day notice period." (Johnson Aff., Ex. D.) The written notice also stated that CDI expects "you to honor and abide by the terms of the non-compete . . . ." (*Id.*)

17. CDI did not request that Dr. Long consult on patient matters during this 90-day period. Dr. Long's email account, access card, and employee credentials were revoked on September 25, 2014.

18. During the 90-day period, Dr. Long continued to receive some compensation from CDI. At the hearing, counsel for CDI stated that Dr. Long received bi-monthly draw payments during this period. According to Dr. Long, the only payments he received were for services provided before September 25, 2014. This appears to be consistent with the Agreement.[1] Dr. Long stated he did not receive benefits from September through December 2014. (Long Aff.)

19. At some time after receiving notice of termination, Dr. Long's counsel requested that CDI release him from the non-compete clause of his Agreement. CDI refused. (Johnson Aff.; Long Aff.)

20. In January, 2015, Dr. Long accepted a position as a physician with Medical Advanced Pains Specialists ("MAPS") in the Mankato Office. The position required a 90-minute

[1] Schedule 3.1 to the Agreement, addressing compensation, provides that "all compensation to Physician [upon termination for any reason] shall cease as of the termination date. If Physician is on production-pay, Physician shall only be entitled to a draw to the extent that Physician is continuing to provide services to Employer during an applicable notice period. . . . Physician shall only be entitled to receive compensation for any services actually collected by Employer as of the termination date." Schedule 3.1(1)(d).

commute and the compensation was less than he had received at CDI, but he accepted the position because it was outside the non-compete Restricted Area as defined in the Agreement. (Long Aff.)

21. On September 22, 2015, Dr. Long moved his practice with MAPS from Mankato to its Maple Grove location in Hennepin County. Long's affidavit explained that "[t]he MAPS clinic in Maple Grove is considerably busier than the MAPS clinic in Mankato and this presents a better revenue opportunity for me. I made the move to Maple Grove because the one-year non-compete was about to expire and CDI had received the benefit of the one-year non-compete period." (Long Aff.) It is undisputed that Maple Grove is within the Restricted Area, as defined in the Employment Agreement.

22. CDI learned of Dr. Long's move to Maple Grove on or about September 22, 2015, and sent cease and desist letters demanding that Dr. Long cease violating the restrictive non-compete covenant. CDI's demands were declined.

23. CDI filed this Motion for a Temporary Restraining Order, along with a Summons and Complaint on October 2, 2015. With notice to Dr. Long, this motion was set for a hearing.

CONCLUSIONS OF LAW

1. A temporary injunction is intended to preserve the status quo until an adjudication on the merits. *Haley v. Forcelle*, 669 N.W.2d 48, 55 (Minn. Ct. App. 2003). It "is an extraordinary equitable remedy." *Miller v. Foley*, 317 N.W.2d 710, 712 (Minn. 1982). Injunctive relief may only be granted if it "the moving party has no adequate remedy at law. Minn. R. Civ. P. 65.01; *Borom v. City of St. Paul*, 184 N.W.2d 595, 598 (Minn. 1971). In other words, CDI must show the TRO is needed to prevent "great and irreparable injury." *Allstate Sales and Leasing Co., Inc. v. Geis*, 412 N.W.2d 30, 32 (Minn. Ct. App. 1987) (citing *Cherne Industrial, Inc. v. Grounds & Associates*, 278 N.W.2d 81, 92 (Minn. 1979)).

2. *The risk of irreparable harm*. The Court finds that a TRO is needed to prevent

irreparable harm to CDI based on Dr. Long's role in developing CDI Pain Care, his access to confidential information while at CDI, and his contact with CDI's referral sources. "It is well-established that irreparable harm can arise out of the breach of a non-compete clause." *Creative Commc'ns Consultants, Inc. v. Gaylord*, 403 N.W.2d 654, 657 (Minn. Ct. App. 1987). "Potential loss of goodwill qualifies as irreparable harm." *Iowa. Utils. Bd. v. F.C.C*, 109 F.3d 418, 426 (8th Cir. 1996). Loss of goodwill cannot simply be reduced to money damages; therefore, a threat to goodwill supports an application for a TRO because no adequate remedy at law exists. In this case, CDI has established a threat of irreparable harm in two ways.

3. First, Dr. Long's personal contact with the CDI referral network during the time that CDI was developing its Pain Care program gives rise to a reasonable likelihood that CDI's goodwill will be harmed if Dr. Long practices in Maple Grove, which is within the Restricted Area as defined in the Employment Agreement. CDI hired Dr. Long to lead CDI Pain Care, a nascent program. Dr. Long personally met with CDI's referral network including physicians, chiropractors, and professionals to discuss CDI's new pain management services. Dr. Long now seeks to provide pain management services in the metropolitan area and this poses a direct, implied threat to CDI's goodwill.

4. Dr. Long asserts that the patients he sees at MAPS are different from the patients he saw at CDI. Also, because he relies on referrals, he argues he has little ability to divert patients from MAPS to CDI. Additionally, Dr. Long offered to "refrain from seeing or treating any individuals who were CDI patients in the one-year period prior to my departure from CDI" and to refuse referrals from chiropractors, who typically refer to CDI.

5. The Court notes that Dr. Long failed to explain how his patients at MAP differ from his patients at CDI, thus the assertion lacks credibility. Further, Dr. Long's acknowledgement that he relies on referrals for his patients and does not personally make referrals

supports CDI's argument that Dr. Long's two-year contact with CDI's referral network poses a threat to goodwill. Moreover, Dr. Long's offer to refrain from seeing or treating CDI patients is not practical and does not address CDI's concern that Dr. Long will receive referrals from CDI's referral network.

6. Second, Dr. Long's access to CDI's confidential financial, sales, marketing, and strategic plan information also weighs in favor of finding the risk of irreparable harm. Dr. Long states he has not *used* any of CDI's confidential information and CDI does not disagree. Yet affidavit evidence established that Dr. Long *received* CDI's confidential financial, sales, marketing, and strategic plan information. While no specific facts have established that Dr. Long has actively used confidential information to compete with CDI, the potential threat of disclosure or use is sufficient to support temporary equitable relief. *Creative Commc'ns Consultants, Inc*., 403 N.W.2d at 657.

7. The threat of irreparable harm is well-recognized as supporting TROs in the context of medical care and professional relationships. Irreparable harm has "been inferred in the case of professional employees assumed to acquire a personal influence over patients or clients of their employer." *Rosewood Mortgage Corp. v. Hefty*, 383 N.W.2d 456, 459 (Minn. Ct. App. 1986). For example, once a relationship is formed between a doctor and patient, "it is beyond question that a doctor's patients will seek his aid regardless of this doctor's employment situation." *Walker Employment Serv., Inc. v. Parkhurst*, 300 Minn. 264, 271, 219 N.W.2d 437, 441 (1974). Professional relationships are implicitly competitive with other, similar professional relationships. *E.g.*, *Andrews v. Cosgriff*, 175 Minn. 431, 433, 221 N.W. 642, 642 (1928) (upholding restrictive covenant wherein "defendant agreed not to engage in the practice of medicine or surgery in the city of Mankato or within a radius of 25 miles therefrom").

8. Given Dr. Long's personal contact with CDI's professional referral network

developed over the course of two years, in the same area of practice and same geographic location, and Dr. Long's access to CDI's confidential information, CDI has met their burden of showing a risk of irreparable harm.

9. If an applicant shows a risk of irreparable harm, then Minnesota courts evaluate the TRO motion in light of five factors, as outlined in *Dahlberg Bros., Inc. v. Ford Motor Co.*, 137 N.W.2d 314, 321–22 (Minn. 1965):

> (a) The nature and background of the relationship between the parties preexisting the dispute giving rise to the request for relief.
>
> (b) The harm to be suffered by plaintiff if the temporary restraint is denied as compared to that inflicted on defendant if the injunction issues pending trial.
>
> (c) The likelihood that one party or the other will prevail on the merits when the fact situation is viewed in light of established precedents fixing the limits of equitable relief.
>
> (d) The aspects of the fact situation, if any, which permit or require consideration of public policy expressed in the statutes, State and Federal.
>
> (e) The administrative burdens involved in judicial supervision and enforcement of the temporary decree.

10. *Nature of relationship*. The parties had a contractual employer/employee relationship. A fundamental part of this relationship was the Agreement signed by Dr. Long on June 8, 2012. As stated above, there was a twelve-month non-compete provision effective upon date of termination. Granting a TRO would not change or create a new relationship, rather, it would support the status quo because it enforces the non-compete provision until this matter can be heard at a temporary injunction hearing on the merits. This factor weighs in favor of granting a TRO.

11. *Balance of harms*. Balancing the harms suffered by each party favors granting the TRO. As stated above, CDI stands to lose confidential information, referral contacts and goodwill. *See generally Medtronic, Inc. v. Advanced Bionics Corp.*, 630 N.W.2d 438, 452 (Minn. Ct. App.

2001) ("Irreparable injury can be inferred from the breach of a restrictive covenant if the former employee came into contact with the employer's customers in a way which obtains a personal hold on the good will of the business.") (internal alterations omitted). Dr. Long's argument that CDI's harm is less because it terminated Dr. Long is not persuasive. Enforcement of a non-compete may be more compelling when an employee voluntarily leaves to pursue other opportunities, however, this one-year non-compete was triggered upon termination, regardless of whether the termination was voluntary or involuntary.

12. The potential harm to Dr. Long is significant, but less than the harm posed to CDI. Dr. Long has worked for MAPS in Mankato beginning in January 2015. There will be hardships to Dr. Long under the TRO: he will have to travel further, for a lower-paying job, where he has not presently been scheduling patients. Each of these losses likely translates into money damages, should Dr. Long assert claims and prevail.

13. Dr. Long's recent practice in Mankato also indicates, however, he has the opportunity to work until the hearing on a temporary injunction and/or a resolution of this case on the merits.

14. Moreover, the purpose of a TRO "is to preserve the status quo until adjudication of the case on its merits." *Miller*, 317 N.W.2d at 712. Until September 22, 2015, the status quo was Dr. Long working for MAPS in Mankato without any violation of the non-compete clause. On the other hand, Dr. Long practicing in Hennepin County is exactly what the parties bargained for *not* to happen within one year of termination. The Court notes the hardship the TRO will have on Dr. Long, but on balance, the irreparable harm shown by CDI is greater.

15. *Likelihood of success on the merits*. The "success on the merits" factor is a low threshold. A party seeking a TRO or injunction need only make a plausible showing it will likely prevail on the merits of its claims. *Metro Sports Facilities Comm'n v. Minn. Twins P'ship*, 636

N.W.2d 214, 226 (Minn. Ct. App. 2002).

16. CDI has made a plausible showing it will likely prevail. First, key terms of the non-compete appear reasonable. The Restricted Area as defined in Section 1.7 of the Agreement is limited to listed counties within the metropolitan area. "With regard to the reasonableness of the geographical scope of the restriction . . . [c]ourts generally uphold geographic limitations when they are limited to areas necessary to protect the employer's interest." *Overholt Crop Ins. Serv. Co. v. Bredeson*, 437 N.W.2d 698, 703 (Minn. Ct. App. 1989) (finding non-compete provision listing counties where employee worked reasonable). Moreover, Dr. Long has shown he can continue his practice without having to move.

17. The twelve-month time restraint is similarly reasonable, given controlling case law. *See id.* (affirming reasonableness of two-year restrictive covenant); *Thermorama, Inc. v. Buckwold*, 267 Minn. 551, 551, 125 N.W.2d 844, 844 (1964) (ordering temporary injunction under one-year restrictive covenant).

18. At this juncture, the only issue on which the parties disagree is the date on which Dr. Long was terminated. Dr. Long argues September 25, 2014, was his termination date, and as such, the one-year non-compete has ended. CDI argues Dr. Long's termination date was December 23, 2014, ninety days after Dr. Long received his notice of termination letter.

19. The Court concludes that CDI has made a plausible showing it will prevail on the merits of this issue. Section 5.1 of the Agreement provides several different types of termination, one of which is termination "upon ninety (90) days' written notice from either party to the other." This clause provides a ninety-day notice period in which a physician is notified of termination but *not yet* terminated. Indeed, Section 5.2 of the Agreement specifically provides that physicians terminated under Section 5.1(d) "shall [at all times during the notice period] consult with Employer as to matters in which Physician was involved."

20. Based on the termination letter CDI delivered to Dr. Long on September 24, 2014, CDI appears to have notified Dr. Long of termination but not yet terminated him. The letter specifically states that Dr. Long's termination date is December 23, 2014.

21. Dr. Long argues the Agreement is ambiguous and thus should be construed against the drafter, CDI. "A contract is ambiguous when its language is reasonably susceptible to more than one interpretation." *Ecolab, Inc. v. Gartland*, 537 N.W.2d 291, 295 (Minn. Ct. App. 1995). Dr. Long points to no ambiguous language in the Agreement and the Court finds no ambiguity.

22. Dr. Long argues he was not employed by CDI after September 25, 2014 because CDI precluded him from seeing patients, CDI did not consult with him during that time, and the only compensation he received was for patient services he had provided prior to September 25, 2014. While this evidence may be reason to reform or "blue-pencil" the non-compete—potential issues that this Court does not consider—this evidence does not supplant the plain language of the parties' Agreement at this preliminary stage of the litigation. *See generally Bennett v. Storz Broad. Co.*, 270 Minn. 525, 533, 134 N.W.2d 892, 898 (1965) (reversing summary judgment enforcing a restrictive covenant and remanding for determination of fact issues surrounding reasonableness of covenant).

23. Given the contractual language establishing that December 23, 2014 was the date of termination, and notification letter from CDI identifying the termination date, CDI has met its burden to prove a plausible win on the merits.

24. *Public policy*. Minnesota disfavors restrictive covenants. Non-compete covenants "are agreements in partial restraint of trade and are looked upon with disfavor." *Overholt Crop Ins. Serv. Co.*, 437 N.W.2d at 703. "But restrictive covenants are enforced to the extent reasonably necessary to protect legitimate business interests." *Medtronic, Inc.*, 630 N.W.2d at 456. "Minnesota . . . has a strong interest in having contracts executed in this state enforced in

accordance with the parties' expectations." *Id.*

25. Two facts stand out in this case showing the reasonableness of a TRO under these circumstances. First, Dr. Long continued his medical practice for nine months after termination by complying with the non-compete covenant. Enforcing the non-compete will allow Dr. Long to continue his practice while also reasonably protecting CDI's legitimate business interests.

26. Second, Dr. Long signed the Agreement after negotiating new non-compete terms. At Dr. Long's request, CDI added a clause exempting Dr. Long from the non-compete provision if CDI Pain Care was discontinued by CDI. This shows Dr. Long read through the contract and was fully aware of the restrictive covenants. *See generally Granger v. Craven*, 159 Minn. 296, 199 N.W. 10 (1924) (upholding physician's restrictive covenant on public policy grounds). In sum, while public policy disfavors restraints on trade, restrictive covenants are permissible in the case of a bargained-for non-compete clause between two sophisticated parties. Public policy does not preclude enforcement of Dr. Long's non-compete.

27. *The administrative burden*. For the Court, the burden of issuing a TRO would be minimal. The TRO would only be in place for less than three months, and as the parties stated at the hearing, an expedited evidentiary hearing will likely resolve the issues before such time. This factor weighs in favor of granting a TRO.

28. *Bond*. The final matter with regard to granting a TRO is the question of bond. "No temporary restraining order or temporary injunction shall be granted except upon the giving of security by the applicant, in such sum as the court deems proper, for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained." Minn. R. Civ. P. 65.03(a). The Court has broad discretion as to the amount of bond posted. *Bio-Line, Inc. v. Burman*, 404 N.W.2d 318, 321–22 (Minn. Ct. App. 1987).

29. The Court finds that CDI posting $50,000.00 as security is appropriate in this case for a number of reasons. First, at this juncture, CDI did not dispute Dr. Long's claim that he will suffer a loss in income if he continues his practice in Mankato. He may be entitled to recover such loss if he asserts a claim and prevails at the temporary injunction hearing or on the merits. Second, CDI stated at the hearing it would not be a hardship to post a money bond to secure the TRO. Third, the amount is reasonable provided Dr. Long's estimated loss of income. According to counsel at the hearing, Dr. Long stood to earn twice as much in Maple Grove as he did in Mankato. Requiring CDI to post a bond will protect a potential claim for lost wages.

30. *Expedited discovery and preservation of electronic information*. CDI requests expedited discovery and an order directing Dr. Long to preserve electronic information. "Further development of the record before the preliminary injunction hearing will better enable the court to judge the parties' interests and respective chances for success on the merits." *Edudata Corp. v. Scientific Computers, Inc.*, 599 F. Supp. 1084, 1088 (D. Minn.) *aff'd in part, appeal dismissed in part*, 746 F.2d 429 (8th Cir. 1984). Dr. Long does not object to expedited discovery or preservation of evidence as long as *both* parties are bound equally. The Court concludes that expedited discovery and the preservation of electronic information is appropriate in this case. *See generally* Minn. R. Civ. P. 26.01(a); 26.04(a).

ORDER

1. Plaintiff Medical Scanning Consultants, P.A's Motion for a Temporary Restraining Order is GRANTED as follows: Defendant Robert H. Long, M.D., is hereby enjoined from working at MAPS' Maple Grove location or any other location covered by the Restricted Area of the Agreement pending a hearing on a temporary injunction or the merits of the case.

2. Both parties are directed to preserve documents and electronically-stored information and shall not delete documents or electronically stored information that is relevant to

this case.

3. Plaintiff is ordered to post a bond of $50,000 as security for the Temporary Restraining Order.

4. Plaintiff's motion for expedited discovery is GRANTED as follows:

   a. The parties may serve discovery, including subpoenas to third parties, effective immediately.

   b. The time for initial disclosures in this case shall be shortened from 30 days to 15 days.

5. Plaintiff shall proceed with a temporary injunction hearing within 30 days of the date of this order.

6. This restraining order shall remain in effect until midnight on December 23, 2015 or until further order of this Court.

IT IS SO ORDERED:

BY THE COURT:

Dated: October 6, 2015

Diane Bratvold 2015.10.06 17:01:59 -05'00'

Judge of District Court