

9-4-2012

# Advanced Med. v. Imaging Center of Idaho Augmentation Record Dckt. 39753

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# In the Supreme Court of the State of Idaho

LAW CLERK

ADVANCED MEDICAL DIAGNOSTICS, )  
LLC, )

Plaintiff-Appellant, )

v. )

IMAGING CENTER OF IDAHO, LLC, )

Defendant-Respondent. )

ORDER GRANTING MOTION TO  
AUGMENT RECORD

Supreme Court Docket No. 39753-2012  
Canyon County Docket No. 2009-13504

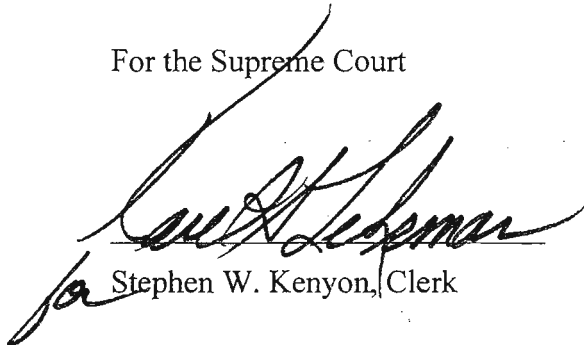
A MOTION TO AUGMENT RECORD and a STATEMENT IN SUPPORT OF MOTION TO AUGMENT RECORD were filed by counsel for Appellant on August 29, 2012. Therefore good cause appearing,

IT HEREBY IS ORDERED that Appellant's MOTION TO AUGMENT RECORD be, and hereby is, GRANTED and the augmentation record shall include the document listed below, copies of which accompanied this Motion:

1. Motion to Disallow Attorney Fees and Costs, filed August 2, 2011.

DATED this 4<sup>th</sup> day of September, 2012.

For the Supreme Court



Stephen W. Kenyon, Clerk

cc: Counsel of Record

**AUGMENTATION RECORD**

ORDER GRANTING MOTION TO AUGMENT RECORD – Docket No. 39753-2012

# In the Supreme Court of the State of Idaho

ADVANCED MEDICAL DIAGNOSTICS, )  
LLC, )

Plaintiff-Appellant, )

v. )

IMAGING CENTER OF IDAHO, LLC, )

Defendant-Respondent. )

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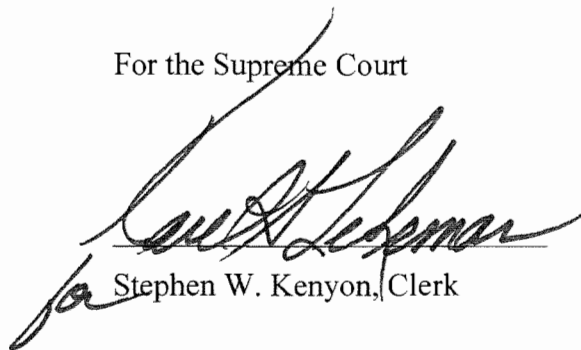
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IT HEREBY IS ORDERED that Appellant's MOTION TO AUGMENT RECORD be, and hereby is, GRANTED and the augmentation record shall include the document listed below, copies of which accompanied this Motion:

1. Motion to Disallow Attorney Fees and Costs, filed August 2, 2011.

DATED this 4<sup>th</sup> day of September, 2012.

For the Supreme Court



Stephen W. Kenyon, Clerk

cc: Counsel of Record

ALLEN B. ELLIS, ISB No. 1626  
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(208) 345-9564 (Facsimile)

Fax Filed on 8-2-11

Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

ADVANCED MEDICAL DIAGNOSTICS, )  
LLC, a Delaware limited liability company, )

Plaintiff, )

v. )

IMAGING CENTER OF IDAHO, LLC, )  
an Idaho limited liability company. )

Defendant. )  
\_\_\_\_\_ )

Case No. CV-09-13504-C

MOTION TO DISALLOW  
ATTORNEY FEES AND COSTS

Comes now the plaintiff Advanced Medical Diagnostics, LLC, ("plaintiff") through its attorney of record, and moves the Court for an order disallowing defendant/counterclaimant Imaging Center of Idaho's ("defendant/counterclaimant") claimed attorney fees and costs. This motion is made upon the grounds that defendant/counterclaimant is not a prevailing party, i.e., defendant was found to be in breach of contract, had abandoned its counterclaim for breach of contract against plaintiff (Count I of Counterclaim), was awarded no damages on its counterclaim of intentional misrepresentation (Count II of Counterclaim), and failed to prove the affirmative defense of fraud.

MOTION TO DISALLOW ATTORNEY FEES AND COSTS - 1

COPY TO elbert@emad.com  
ON 8-2-11

This motion is made upon the further grounds that defendant/counterclaimant has failed to segregate its fees incurred in prosecuting and defending the breach of contract claims from those fees incurred in prosecuting its fraud claim which carries no entitlement to attorney fees under Idaho Code §12-120(3).

This motion is based upon the memorandum of law filed herewith, the affidavit of Allen B. Ellis, the pleadings and records in this action, and upon such other oral and documentary evidence as may be presented at the hearing

DATED this 2<sup>nd</sup> day of August, 2011.



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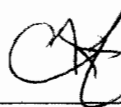
Allen B. Ellis  
Attorney for plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY That on this 2<sup>nd</sup> day of August, 2011, I caused to be served a true and correct copy of the foregoing document by the method indicated below, and addressed to the following:

Jeffrey R. Townsend  
Townsend Law, P.C.  
3006 E. Goldstone Dr., Ste. 120  
Meridian, Idaho 83642

U.S. Mail, postage prepaid  
 Hand delivery  
 Overnight delivery  
 Facsimile (350-7311)



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Allen B. Ellis