



## National Diagnostics

2010 | Cited 0 times | W.D. North Carolina | January 27, 2010

### ORDER

THIS MATTER is before the Court sua sponte following the parties response to the Court's order for Plaintiff to show cause as to the reason for the delay in producing documents requested by Defendant and causing the trial to be delayed.<sup>1</sup> The Court directs Plaintiff to submit an affidavit to the Court by February 9, 2010, of the individual(s) who searched the hard drives of National Diagnostics, Inc. during the course of discovery and following Defendant's December request. The affidavit(s) should address: 1) the types of files the individual was directed to search for by Plaintiff or Plaintiff's counsel; 2) search terms used; and 3) if there were any files or terms the individual was instructed not to search for on the hard drives, and if so, what were those terms and files. In response, the Court directs Defendant to submit any responsive affidavits by February 23, 2010, so there is a record from which the Court can review to determine whether these documents were nearly impossible to locate, negligently not found, or intentionally withheld. Thereafter, the Court will determine whether an evidentiary hearing is needed.

IT IS SO ORDERED.

1. The Court's demand to show cause was included in the Court's order granting Defendant's Motion to Continue Trial and for Leave to Conduct Discovery. (Doc. No. 20).

