

STATE OF NORTH CAROLINA
COUNTY OF ALAMANCE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
11 CVS 1379

ESOTERIX GENETIC LABORATORIES,
LLC,

Plaintiff,

v.

BETH McKEY, KYLE MECKLENBURG
and COUNSYL, INC.,

Defendants.

PERMANENT INJUNCTION BY CONSENT

This matter comes before the Court on the request of Plaintiff Esoterix Genetic Laboratories, LLC (“EGL”) and Defendants Beth McKey (“McKey”) and Kyle Mecklenburg (“Mecklenburg”) to have entered a permanent injunction against McKey and Mecklenburg in favor of EGL:

On May 25, 2011, Judge W. Osmond Smith entered a Temporary Restraining Order (“TRO”) against McKey and Mecklenburg. The TRO has been continued since that time with the consent of McKey and Mecklenburg until the preliminary injunction matter could be scheduled following the parties’ discovery efforts.

The parties have conferred, and in an effort to avoid unnecessary expense, time and effort of both the parties and the Court, the parties have agreed to a full and final settlement of their dispute which includes the entry of the within consent permanent injunction.

NOW, THEREFORE, upon agreement of the parties and for good cause shown, the Court hereby ORDERS that:

1. Until May 5, 2012 regardless of their employer, and during any period of employment with Counsyl, Inc., Good Start Genetics, Inc., Bio-Reference Laboratories, Inc., Sequenom, Inc, and Quest Diagnostics Inc., their subsidiary and affiliated companies as well as their successors and assigns (“the Restrained Entities”), up to March 31, 2013, McKey and Mecklenburg are restrained and enjoined from:

(a) offering, selling, or providing the same or substantially similar reproductive genetic testing services offered and/or provided by EGL in the same geographic territory for which they were responsible while employed at EGL;

(b) directly or indirectly, contacting, soliciting, or communicating with a customer or potential customer of EGL with whom defendants Mecklenburg and/or McKey had contact while employed at EGL, for the purpose of offering, selling, or providing the same or substantially similar reproductive genetic testing services offered and/or provided to that customer or potential customer by EGL;

2. Through March 31, 2013, McKey and Mecklenburg are restrained and enjoined from contacting, soliciting, encouraging or inducing any EGL employees to work for or provide services to Counsyl, Inc. (“Counsyl”) or any of the other Restrained Entities to the extent they become employed there; and

3. Through May 19, 2018, McKey and Mecklenburg are restrained and enjoined from using or divulging to any third-party, including Counsyl, any Confidential Information of

EGL. The term “Confidential Information” shall mean information that concerns EGL’s prices, pricing methods, costs, profits, profit margins, suppliers, methods, procedures, processes, or combinations or applications thereof developed in, by, or for EGL’s business, research and development projects, data, business strategies, marketing strategies, sales techniques, customer lists, Customer Information, financial information, or any other information concerning the EGL business that is not readily and easily available to the public or to those persons in the same business trade or industry of EGL. The term “Customer Information” shall mean information that concerns the course of dealing between EGL and its customers or potential customers solicited by EGL, customer preferences, particular contracts or locations of customers, negotiations with customers, and any other information concerning customers obtained by EGL that is not readily and easily available to the public or to those persons in the same business trade or industry of EGL. To the extent that McKey or Mecklenburg have in their possession any Confidential Information of EGL, whether in physical or electronic form, it shall be returned to counsel for EGL or they shall certify destruction of such Confidential Information within seven (7) days of entry of this Order.

4. The Alamance County Clerk of Court shall release the \$10,000 bond posted by EGL.

5. By signing below, the attorneys for the parties represent that their clients are aware of and have authorized them to consent to the entry of this Order.

6. This Order supersedes and replaces all previous Temporary Restraining Orders and Preliminary Injunction Orders in this action.

AGREED TO this 8th day of March, 2012.

/s/ Amie Flowers Carmack
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*Attorney for Defendants Beth McKey and Kyle
Mecklenburg*

SO ORDERED this 14th day of March, 2012.

/s/ James L. Gale
James L. Gale
Special Superior Court Judge
for Complex Business Cases