

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

MEDICAL SUPPLY CHAIN, INC.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 2:05-cv-2299-KHV-GLR
)	
NOVATION, LLC, et al.,)	
)	
Defendants.)	

**NOVATION, LLC, VHA INC.,
UNIVERSITY HEALTHSYSTEM CONSORTIUM
ROBERT BAKER AND CURT NONOMAQUE'S
RESPONSE TO PLAINTIFF'S MOTION
TO SUBSTITUTE DEFENDANT**

Defendants Novation, LLC ("Novation"), VHA Inc. ("VHA"), University Healthsystem Consortium ("UHC"), Robert Baker, and Curt Nonomaque (collectively, "Defendants") respectfully request that the Court deny Plaintiff's motion to substitute Global Health Exchange, LLC (GHX) as a defendant in the place of Neoforma, Inc. ("Neoforma") because Plaintiff's Motion is premature.

1. The basis for Plaintiff's Motion is Neoforma's announcement that it has entered into a merger agreement whereby GHX will acquire Neoforma. Plaintiff contends that GHX's purchase of Neoforma makes GHX the real party in interest.

2. However, this Court need not consider, at this time, whether the purchase of a company requires such a substitution, because Plaintiff's Motion is premature. The proposed transaction between GHX and Neoforma is subject to approval by a majority of the shareholders (excluding VHA, Inc. and UHC). This shareholder vote has not yet occurred. Moreover, the transaction cannot be consummated until the expiration of the applicable waiting period under

the Hart-Scott-Rodino Act. Accordingly, the transaction is not expected to close until early 2006.

3. Because the transaction between GHX and Neoforma is subject to certain contingencies and is not expected to be completed for several months, Plaintiff's Motion to substitute is premature.

WHEREFORE, for all of these reasons, Defendants request that the Court deny Plaintiff's Motion to Substitute and to grant Defendants all other relief to which they are entitled.

HUSCH & EPPENBERGER, LLC

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BAKER

CERTIFICATE OF SERVICE

I hereby certify that on October 24, 2005, I electronically filed the foregoing with the clerk of the court by using the CM/ECF system which will send a notice of electronic filing to the following::

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