

## Andrew B. Turner

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**From:** Jelenchick, Kadie M. <KJelenchick@foley.com>  
**Sent:** Monday, April 15, 2024 3:12 PM  
**To:** John M. Halan  
**Cc:** Koley, Ashley M.; Maass, Steph; LCF0110L@brookskushman.com; Thomas A. Lewry; Andrew B. Turner  
**Subject:** RE: Woodway v. LifeCORE - Improper Document Doctoring and Submission

John,

We looked into this issue, and we can only conclude that we inadvertently printed a native copy of the document for use in Ms. Bates' deposition, which did not include the confidentiality designation and production numbers. I assure you that no one on our end intentionally "doctored" the document.

In any event, Ms. Bates testified that Exhibit 39 is not confidential, (see T. Bates Depo. Tr. at 76-80), which means that Assault's confidentiality designation was improper in the first instance. Woodway requests that Assault withdraw the confidentiality designation.

In view of the foregoing, at this time, Woodway is not considering the removal of Exhibit 39 from Woodway's IPR responses. However, if Assault is unwilling to de-designate the document, Woodway is amenable to submitting a request to seal the document in connection with the IPR. As the proponent, Assault will need to provide a justification to the USPTO as to why the document is confidential, which will be difficult in view of Ms. Bates' testimony.

Please let us know how you would like to proceed.

**Kadie M. Jelenchick**  
*Partner & Co-Chair IP Litigation*

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**From:** John M. Halan <jhalan@brookskushman.com>  
**Sent:** Friday, April 12, 2024 8:48 AM  
**To:** Jelenchick, Kadie M. <KJelenchick@foley.com>  
**Cc:** Koley, Ashley M. <AKoley@foley.com>; Maass, Steph <SMAass@foley.com>; LCF0110L@brookskushman.com; Thomas A. Lewry <tlewry@brookskushman.com>; Andrew B. Turner <aturner@brookskushman.com>  
**Subject:** Woodway v. LifeCORE - Improper Document Doctoring and Submission

**\*\* EXTERNAL EMAIL MESSAGE \*\***

Kadie,

It has come to our attention that Woodway doctored the document introduced as Exhibit 39 during the deposition of Traci Bates. This included, among other things, deleting both the "CONFIDENTIAL – FOR COUNSEL ONLY" designations and the Bates Nos. NP009058-9078.

Even more egregiously, Woodway then submitted the doctored document, and referred to the doctored document and its text, in conjunction with its IPR responses in IPRs 2023-00836, -00843, and -00849. This was done by Woodway in violation of paragraph 7 of the Protective Order in the underlying lawsuit that provides in pertinent part: “All confidential information designated as “CONFIDENTIAL” or “CONFIDENTIAL FOR COUNSEL ONLY” ... must not be used for any purpose other than in connection with this litigation.”

We request that you immediately take all steps necessary to remove Exhibit 39, and all references to Exhibit 39, from your IPR responses.

If you refuse to do so, we will bring this to the attention of the District Court and PTAB and seek appropriate sanctions.

Thank you,

**John M. Halan**

Shareholder

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