

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

TELADOC, INC., TELADOC §
PHYSICIANS, P.A., KYON HOOD, and §
EMMETTE A. CLARK, §

Plaintiffs, §

v. §

Civil Action No. 1:15-cv-00343-RP

TEXAS MEDICAL BOARD, MICHAEL §
ARAMBULA, JULIE K. ATTEBURY, §
MANUEL G. GUAJARDO, JOHN R. §
GUERRA, J. SCOTT HOLLIDAY, §
MARGARET C. MCNEESE, ALLAN N. §
SHULKIN, ROBERT B. SIMONSON, §
WYNNE M. SNOOTS, PAULETTE B. §
SOUTHARD, KARL W. SWANN, §
SURENDA K. VARMA, STANLEY S. §
WANG, and GEORGE WILLEFORD III, §
individually and in their capacities as §
members of the Texas Medical Board, §

Defendants. §

PLAINTIFFS’ UNOPPOSED MOTION FOR ENTRY OF BOND AMOUNT

TO THE HONORABLE JUDGE ROBERT L. PITMAN:

COME NOW Plaintiffs Teladoc, Inc., Teladoc Physicians, P.A., Kyon Hood, M.D., and Emmette Clark, M.D. (collectively “Plaintiffs”) and file this Unopposed Motion for Entry of Bond Amount, and in support thereof respectfully show the Court as follows:

1. *Executive Summary.* The Court granted Plaintiffs’ Application for a Temporary Restraining Order and Preliminary Injunction on May 29, 2015 (the “Order”). (Dkt. No. 44). Pursuant to FED. R. CIV. P. 65(c), Plaintiffs respectfully request the Court to enter an order setting a bond amount of \$500.00. The Defendants do not oppose this request.

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2. **Arguments and Authorities.** Rule 65 provides that a court may issue a preliminary injunction “only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained.” FED. R. CIV. P. 65(c). The Fifth Circuit has described this bond requirement “as a contract in which the court and plaintiff ‘agree’ to the bond amount as the ‘price’ of a wrongful injunction.” *Continuum Co. v. Inceptis, Inc.*, 873 F.2d 801, 803 (5th Cir. 1989). The Court has discretion to set the appropriate bond amount, including discretion not to require a bond. *See Kaepa, Inc. v. Achilles Corp.*, 76 F.3d 624, 628 (5th Cir. 1996).

3. In this case, the Court has not specified a bond amount. The parties have agreed that an appropriate bond amount is \$500.00. Aside from the parties’ agreement, the proposed bond amount is appropriate because Defendants have not proposed an alternative bond amount, and, in any event, will suffer no harm from compliance with the injunction. *See New Orleans Home for Incurables, Inc. v. Greenstein*, 911 F. Supp. 2d 386, 412-13 (E.D. La. 2012) (declining to require any security where “the Secretary has neither requested security in the event that this Court grants a preliminary injunction, nor has it presented any evidence that it will be financially harmed if it were wrongfully enjoined”).

4. **Conclusion.** Plaintiffs respectfully request the Court to order a bond amount of \$500.00 pursuant to FED. R. CIV. P. 65(c) and the parties’ agreement.

Respectfully submitted,

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CERTIFICATE OF CONFERENCE

On June 16, 2015, I conferred in good faith with counsel for Defendants, Jim Todd, regarding the relief requested in this Motion pursuant to W.D. TEX. LOCAL RULE CV-7-2(i). Mr. Todd stated that Defendants are unopposed to the requested relief.

/s/ Joshua A. Romero _____

Joshua A. Romero

CERTIFICATE OF SERVICE

This is to certify that on this 17th day of June, 2015, a true and correct copy of the foregoing instrument was electronically filed by the Court's ECF system, and notice has been electronically mailed to Jim Todd with the Office of the Texas Attorney General Administrative Division.

/s/ Joshua A. Romero _____

Joshua A. Romero