

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

ALLSCRIPTS HEALTHCARE, LLC	:	CIVIL ACTION
	:	
v.	:	NO. 21-704
	:	
ANDOR HEALTH, LLC, et al.	:	

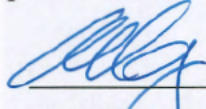
ORDER

AND NOW, this 5th day of April 2022, upon reviewing Special Master Judge Robinson’s Report and Recommendation (D.I. 316), Plaintiff’s Motion for reconsideration or objection to Judge Robinson’s privilege determination relating to Mr. Poulton’s May 7, 2020 email (D.I. 317), Defendant’s Response (D.I. 324), mindful the parties did not otherwise timely object to the Report and Recommendation, reminding counsel there is no provision in our Rule 53 referral for reconsideration and the issues raised in the Plaintiffs’ Motion (D.I. 317) appear to be issues which could have been raised before Judge Robinson given the Plaintiffs’ burden of proof but we are mindful of the import of a privilege and find grounds to allow Judge Robinson to review the issue based on an immediate motion for a protective order, it is **ORDERED** we:

1. **ADOPT** Special Master Judge Robinson’s Report and Recommendation (D.I. 316) based on the arguments made to her;
2. **DENY** Defendants’ Motion to compel complete responses to Interrogatories (D.I. 275);
3. **GRANT** Plaintiffs’ Motion to compel production of source code (D.I. 282) based upon a protocol agreed upon by 5:00 PM on April 6, 2022 or, absent agreement, subject to Judge Robinson’s determination based upon competing expert declarations filed no later than 5:00 PM on **April 7, 2022**, with Plaintiffs solely responsible for reasonable costs of additional measures;

4. **GRANT** Defendants' Motion for a Privilege Determination (D.I. 280) but **STAY** further use of the challenged email or renewed deposition on this document until our Order ruling upon Plaintiffs' imminent Motion for a protective order providing evidence confirming the May 7, 2020 email from Mr. Poulton to several persons may be privileged to be filed compliant with our Policies no later than **NOON** on **April 6, 2022** with a response filed by **7:00 PM** on **April 8, 2022** and then reviewed by Judge Robinson for a Report and Recommendation on whether an articulated privilege may preclude further examination on this produced email; and,

5. **DENY** Plaintiffs' Motion for reconsideration or objection (D.I. 323) as based on information within their knowledge and burden of proof before Judge Robinson's analysis.



KEARNEY, J.