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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CAVE CONSULTING GROUP, INC.,
Plaintiff,
v.
TRUVEN HEALTH ANALYTICS INC.,
Defendant.

Case No. [15-cv-02177-SI](#)

ORDER RE: DISCOVERY

Re: Dkt. No. 207

The parties have submitted a joint letter brief regarding a discovery dispute. Plaintiff wishes to take certain third party discovery after the close of fact discovery (April 28, 2017). Defendant opposes this request, arguing that plaintiff has not been diligent in seeking and completing the discovery at issue, while plaintiff asserts that it has been diligent and that defendant and the third parties have been obstructing plaintiff’s discovery.

The Court concludes that plaintiff has demonstrated good cause to complete the third party discovery with respect to Highmark and Blue Cross and Blue Shield of Alabama (“BCBS-AL”), but not with respect to Blue Cross and Blue Shield of Texas (“BCBS-TX”) or Blue Cross and Blue Shield of Illinois (“BCBS-IL”). Plaintiff issued subpoenas to Highmark and BCBS-AL in early January, has engaged in meet and confers with respect to document requests and taken some depositions (Highmark), and is in the process of receiving additional documents and scheduling depositions for Highmark and BCBS-AL that should occur very soon. Under those circumstances, the Court finds it is appropriate that plaintiff be permitted to conclude that limited discovery after the close of fact discovery.

However, the Court finds that plaintiff has not acted diligently in seeking discovery from BCBS-TX and BCBS-IL. Plaintiff did not issue subpoenas to those entities until April 19 and 20.

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Plaintiff states that the subpoenas sought compliance by April 28, and that Rule 45 contemplates circumstances where the response time may be short. Regardless, it was foreseeable that it would take longer than 8 or 9 days for BCBS-TX and BCBS-IL to respond to document requests and produce individuals for deposition on a range of topics. As defendant notes, the fact discovery deadline has been extended twice, in part due to plaintiff's amendment of the complaint. Plaintiff should have issued the third party subpoenas in a sufficient time frame such that the discovery could be completed by the current deadline.

IT IS SO ORDERED.

Dated: April 27, 2017



SUSAN ILLSTON
United States District Judge