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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA

10 NAOMI J. AYLWARD, individually and  
11 as personal representative for the Estate of  
12 Philip Aylward,

13 Plaintiff,

14 v.

15 SELECTHEALTH INC. a Utah  
16 corporation doing business as  
17 Selecthealth, Inc., et al.,

Defendants.

Case No.: 18cv0494-WQH-MDD

**AMENDED SCHEDULING  
ORDER REGULATING  
DISCOVERY  
AND OTHER PRE-TRIAL  
PROCEEDINGS  
[ECF 37]**

18  
19 The parties have moved to extend the time to complete discovery. (ECF  
20 No. 37). The Court finds good cause to extend the remaining dates.

21 Accordingly, **IT IS HEREBY ORDERED:**

22 1. Contradictory or rebuttal disclosures within the meaning of Rule  
23 26(a)(2)(D)(ii) shall be disclosed on or before **July 19, 2019**. Unless otherwise  
24 stipulated by the parties, the required expert disclosures shall include an  
25 expert report as required by Rule 26(a)(2)(B). If a written report is not  
26 required, the disclosure must provide the information required under Rule  
27 26(a)(2)(C).

1           2.       **Except as provided in the paragraph below, any party**  
2 **that fails to make these disclosures shall not, absent substantial**  
3 **justification, be permitted to use evidence or testimony not disclosed**  
4 **at any hearing or at the time of trial. In addition, the Court may**  
5 **impose sanctions as permitted by Fed. R. Civ. P. 37(c).**

6           3.       All discovery, including expert discovery, shall be completed by all  
7 parties by **September 6, 2019**. Completed means that interrogatories,  
8 requests for production, and other discovery requests must be served at least  
9 thirty (30) days prior to the established cutoff date so that responses thereto  
10 will be due on or before the cutoff date. All subpoenas issued for discovery  
11 must be returnable on or before the discovery cutoff date. All disputes  
12 concerning discovery shall be brought to the attention of the Magistrate  
13 Judge no later than thirty (30) days following the date upon which the event  
14 giving rise to the dispute occurred. The parties are required to meet and  
15 confer regarding all discovery disputes pursuant to the requirements of Local  
16 Rule 26.1(a). The parties are to comply with the chambers rules of the  
17 Magistrate Judge in bringing discovery before the court.

18           4.       Failure to comply with this section or any other discovery order of  
19 the court may result in the sanctions provided for in Fed. R. Civ. P. 37,  
20 including a prohibition on the introduction of experts or other designated  
21 matters in evidence.

22           5.       All other pretrial motions must be filed by **October 11, 2019**.  
23 Counsel for the moving party must obtain a motion hearing date from the law  
24 clerk of the judge who will hear the motion. The period of time between the  
25 date you request a motion date and the hearing date may vary from one  
26 district judge to another. Please plan accordingly. Failure to make a timely  
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1 request for a motion date may result in the motion not being heard. Motions  
2 in limine are to be filed as directed in the Local Rules, or as otherwise set by  
3 the district judge.

4 6. A Mandatory Settlement Conference shall be conducted on  
5 **September 26, 2019** at **9:30AM** in the chambers of **Magistrate Judge**  
6 **Mitchell D. Dembin**. Counsel or any party representing himself or herself  
7 shall submit confidential settlement briefs directly to chambers by  
8 **September 18, 2019**. All parties are ordered to read and to fully comply  
9 with the Chamber Rules of the assigned magistrate judge.

10 7. In jury trial cases before Judge Hayes, neither party is required to  
11 file Memoranda of Contentions of Fact and Law.

12 8. Counsel shall comply with the pre-trial disclosure requirements of  
13 Fed. R. Civ. P. 26(a)(3) by **January 3, 2020**. Failure to comply with these  
14 disclosure requirements could result in evidence preclusion or other sanctions  
15 under Fed. R. Civ. P. 37.

16 9. Counsel shall meet and take the action required by Local Rule  
17 16.1(f)(4) by **January 10, 2020**. At this meeting, counsel shall discuss and  
18 attempt to enter into stipulations and agreements resulting in simplification  
19 of the triable issues. Counsel shall exchange copies and/or display all exhibits  
20 other than those to be used for impeachment. The exhibits shall be prepared  
21 in accordance with Local Rule 16.1(f)(4)(c). Counsel shall note any objections  
22 they have to any other parties' Pretrial Disclosures under Fed. R. Civ. P.  
23 26(a)(3). Counsel shall cooperate in the preparation of the proposed pretrial  
24 conference order.

25 10. Counsel for plaintiff will be responsible for preparing the pretrial  
26 order and arranging the meetings of counsel pursuant to Civil Local Rule  
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1 16.1(f). By **January 17, 2020**, plaintiff's counsel must provide opposing  
2 counsel with the proposed pretrial order for review and approval. Opposing  
3 counsel must communicate promptly with plaintiff's attorney concerning any  
4 objections to form or content of the pretrial order, and both parties shall  
5 attempt promptly to resolve their differences, if any, concerning the order.

6 11. The Proposed Final Pretrial Conference Order, including  
7 objections to any other parties' Fed. R. Civ. P. 26(a)(3) Pretrial Disclosures  
8 shall be prepared, served and lodged with the assigned district judge by  
9 **January 24, 2020**, and shall be in the form prescribed in and comply with  
10 Local Rule 16.1(f)(6).

11 12. The final Pretrial Conference is scheduled on the calendar of the  
12 **Honorable William Q. Hayes on January 31, 2020 at 11:00AM**.

13 13. The parties must review the chambers' rules for the assigned  
14 district judge and magistrate judge.

15 14. A post trial settlement conference before a magistrate judge may  
16 be held within 30 days of verdict in the case.

17 15. The dates and times set forth herein will not be modified except  
18 for good cause shown.

19 16. Briefs or memoranda in support of or in opposition to any pending  
20 motion shall not exceed twenty-five (25) pages in length without leave of a  
21 district court judge. No reply memorandum shall exceed ten (10) pages  
22 without leave of a district court judge. Briefs and memoranda exceeding ten  
23 (10) pages in length shall have a table of contents and a table of authorities  
24 cited.

25 17. Plaintiff's counsel shall serve a copy of this order on all parties  
26 that enter this case hereafter.

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**IT IS SO ORDERED.**

Dated: July 17, 2019



Hon. Mitchell D. Dembin  
United States Magistrate Judge

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