

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

DAVID K. LONN,

Plaintiff,

v.

CORIZON HEALTH, DR. APRIL  
DAWSON, DR. DAVID AGLER, and  
DR. KLINT STANDER,

Defendant.

Case No. 1:14-CV-00031-EJL

**ORDER ON REPORT AND  
RECOMMENDATION**

**INTRODUCTION**

On June 26, 2015, United States Chief Magistrate Judge Candy W. Dale issued a Report and Recommendation (“Report”), recommending that Plaintiff’s Motion for Leave to Amend (Dkt. 32) be granted, Dr. Klint Stander’s Motion to Dismiss (Dkt. 30) be conditionally granted, and Dr. April Dawson’s Motion to Dismiss (Dkt. 14) be denied. (Dkt. 44.) Any party may challenge a magistrate judge’s proposed recommendation by filing written objections to the Report within fourteen days after being served with a copy of the same. *See* 28 U.S.C. § 636(b)(1); Local Civil Rule 72.1(b). The district court must then “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.* The district court may accept, reject,

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or modify in whole or in part, the findings and recommendations made by the magistrate judge. *Id.*; *see also* Fed. R. Civ. P. 72(b). No written objections were filed and the time for doing so has passed. The matter is now ripe for the Court’s consideration. *See* Local Civil Rule 72.1(b)(2); 28 U.S.C. § 636(b)(1)(B).

### STANDARD OF REVIEW

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court “may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge.” Where the parties object to a report and recommendation, this Court “shall make a *de novo* determination of those portions of the report which objection is made.” *Id.* Where, however, no objections are filed the district court need not conduct a *de novo* review. In *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003), the court interpreted the requirements of 28 U.S.C. § 636(b)(1)(C):

The statute [28 U.S.C. § 636(b)(1)(C)] makes it clear that the district judge must review the magistrate judge's findings and recommendations *de novo* if objection is made, but not otherwise. As the *Peretz* Court instructed, “to the extent *de novo* review is required to satisfy Article III concerns, it need not be exercised unless requested by the parties.” *Peretz*, 501 U.S. at 939 (internal citation omitted). Neither the Constitution nor the statute requires a district judge to review, *de novo*, findings and recommendations that the parties themselves accept as correct. *See Ciapponi*, 77 F.3d at 1251 (“Absent an objection or request for review by the defendant, the district court was not required to engage in any more formal review of the plea proceeding.”); *see also Peretz*, 501 U.S. at 937-39 (clarifying that *de novo* review not required for Article III purposes unless requested by the parties) . . . .

*See also Wang v. Masaitis*, 416 F.3d 993, 1000 & n.13 (9th Cir. 2005). Furthermore, to the extent that no objections are made, arguments to the contrary are waived. *See* Fed. R. Civ.

P. 72; 28 U.S.C. § 636(b)(1) (objections are waived if they are not filed within fourteen days of service of the Report and Recommendation). “When no timely objection is filed, the Court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Advisory Committee Notes to Fed. R. Civ. P. 72 (citing *Campbell v. United States Dist. Court*, 501 F.2d 196, 206 (9th Cir.1974)).

The Court has reviewed the entire Report as well as the record in this matter for clear error on the face of the record and none has been found. Having completed such review, this Court concludes it is in agreement with the reasoning and recommendations as articulated in the Report and will incorporate and adopt the same as its own and will enter the following Order.

### **ORDER**

**NOW THEREFORE IT IS HEREBY ORDERED** that the Report and Recommendation entered on June 26, 2015 (Dkt. 44) is **ADOPTED IN ITS ENTIRETY** as follows:

- 1) Plaintiff’s Motion for Leave to Amend Pleadings (Dkt. 32) is **GRANTED**.  
Plaintiff shall file his second amended complaint, in accordance with the direction as stated in the Report, on or before **October 2, 2015**.
- 2) Dr. Klint Stander’s Motion for Partial Dismissal and/or Summary Judgment (Dkt. 30) is **CONDITIONALLY GRANTED** as stated in the Report.

- 3) Dr. April Dawson's Motion to Dismiss (Dkt. 14) is **DENIED** as stated in the Report.



DATED: **September 2, 2015**

A handwritten signature in black ink that reads "Edward J. Lodge". The signature is written in a cursive style and is positioned above a horizontal line.

Honorable Edward J. Lodge  
U. S. District Judge