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3
4 UNITED STATES DISTRICT COURT
5 WESTERN DISTRICT OF WASHINGTON
6 AT SEATTLE

7 LISA SMITH,)

8 Plaintiff,)

9 v.)

10 MEGAN DOHTRY, *et al.*,)

11 Defendants.)
12 _____)

) CASE NO. C16-1818RSM

) ORDER GRANTING MOTION TO
) COMPEL

13 THIS MATTER comes before the Court on Defendants' Motion to Compel Discovery
14 Responses. Dkt. #48. Defendants assert that, despite numerous extensions of time to respond,
15 Plaintiff has failed to provide complete answers to many of their Interrogatories and Requests for
16 Production, and they are long overdue. *Id.*

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18 On September 7, 2017, Defendants served Plaintiff with Defendants' First Interrogatories
19 and Request for Production. Dkt. #49, Ex. 3. Answers to those Interrogatories were therefore
20 due October 11, 2017, but Plaintiff did not provide them. At that time, Defendants agreed to an
21 additional one month extension for Plaintiff to answer, making Plaintiff's responses due on
22 November 13, 2017. Dkt. #48. Plaintiff failed to answer the discovery within that time.
23 However, on November 22, 2017, after suffering a medical illness, Plaintiff moved the Court for
24 an additional extension to answer the Interrogatories, which the Court granted, allowing Plaintiff
25 until January 4, 2018, to respond. Dkt. #44. When Plaintiff did not respond, Defendants
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1 requested that she properly answer discovery by January 26, 2018. Dkt. #49, Ex. 2. Defendants
2 continue to await complete discovery responses to this date.

3 Under Federal Rule of Civil Procedure 26(b)(1):

4 Parties may obtain discovery regarding any nonprivileged matter that is
5 relevant to any party's claim or defense and proportional to the needs of the
6 case, considering the importance of the issues at stake in the action, the
7 amount in controversy, the parties' relative access to relevant information,
8 the parties' resources, the importance of the discovery in resolving the issues,
9 and whether the burden or expense of the proposed discovery outweighs its
likely benefit. Information within this scope of discovery need not be
admissible in evidence to be discoverable.

10 If requested discovery is not answered, the requesting party may move for an order compelling
11 such discovery. Fed. R. Civ. P. 37(a)(1). "The party who resists discovery has the burden to
12 show that discovery should not be allowed, and has the burden of clarifying, explaining, and
13 supporting its objections." *Cable & Computer Tech., Inc. v. Lockheed Sanders, Inc.*, 175 F.R.D.
14 646, 650 (C.D. Cal. 1997).

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16 Plaintiff has untimely responded to the instant motion, admitting that she has refused to
17 respond to discovery, but stating that the reason she has done so is because she seeks a protective
18 order to govern her responses. Dkt. #50. She also states that she will only disclose her medical
19 records if they "are sealed from the public," and will only release the information if the "judge is
20 present when [Defendants] see it." *Id.*

21
22 Plaintiff does not appear to understand the Rules of Civil procedure, her obligations in
23 this litigation or the scope and authority of the Court with respect to discovery. It is Plaintiff's
24 duty to provide requested discovery, unless, if she feels a request is not appropriate, she timely
25 objects and/or seeks relief from the Court. She did not do so in this matter. In fact, on January
26 8, 2018, in seeking an extension of time to propound her own discovery, she represented to the
27 Court that she had already fully responded to Defendants' discovery requests. Dkt. #45.
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1 Moreover, Defendants have agreed to enter into a Protective Order governing her
2 discovery responses, yet Plaintiff has apparently refused to discuss such an Order with opposing
3 counsel. A good faith discussion with opposing counsel regarding discovery is an obligation that
4 Plaintiff must fulfill. Further, Plaintiff appears to be under the mistaken impression that her
5 discovery responses will become public upon sending them to Defendants. This is not the case.
6 Discovery responses are not filed on the public docket, and they are not filed with the Court
7 unless or until a party files particular documents to support a specific motion. Medical records
8 are almost always filed under seal in those instances. Additionally, a Protective Order would
9 govern how other sensitive material is handled. Finally, the Court does not supervise counsel in
10 reviewing discovery responses, and will not do so in this case.
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13 Plaintiff has been granted multiple extensions to properly answer the discovery
14 propounded by Defendants. However, Plaintiff has failed to provide complete responses without
15 a Court Order. Plaintiff has put her medical information at issue through the type of claims she
16 is making, and now must disclose that information to opposing counsel. Further, she must
17 disclose the names and contact information of witnesses to her allegations or those she anticipates
18 will testify in this case. Plaintiff cannot refuse to fulfill her discovery duties by refusing to
19 respond without a Court order. The Federal Rules of Civil Procedure require her to respond to
20 appropriate discovery requests on her own accord. **Therefore, the Court hereby COMPELS**
21 **Plaintiff to fully and truthfully respond to Defendants' discovery requests as set forth**
22 **below.**
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25 Defendant seeks its costs and fees in bringing this motion. Dkt. #48 at 5. Federal Rule
26 of Civil Procedure 37 provides that if a motion to compel is granted, "the court must, after giving
27 an opportunity to be heard, require the party or deponent whose conduct necessitated the motion,
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1 the party or attorney advising that conduct, or both to pay the movant's reasonable expenses
2 incurred in making the motion, including attorney's fees." Rule 37(a)(5)(A). While the Court
3 acknowledges that Plaintiff is proceeding *pro se* in this matter, the Court has also informed
4 Plaintiff on numerous occasions in this litigation that she must comply with the Federal Rules of
5 Civil Procedure and respond to discovery. She must fulfill those obligations even if
6 uncomfortable for her. The discovery requested by Defendants does not require a court order or
7 that the Court supervise Defendants in reviewing her response, and it was improper for Plaintiff
8 to refuse to produce responses without Court intervention. Accordingly, the Court will grant
9 Defendants' request for their expenses in bringing this motion.
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11 Accordingly, the Court hereby finds and ORDERS:

- 12
- 13 1) Defendants' Motion to Compel (Dkt. #48) is GRANTED. **No later than fourteen**
14 **(14) days from the date of this Order, Plaintiff shall serve on Defendants her**
15 **complete responses to Defendants' Interrogatories and Requests for Production.**
16 **Those responses SHALL NOT be filed with the Court. Plaintiff is warned that**
17 **refusing to produce her responses may result in sanctions, including the**
18 **dismissal of her case.**
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 - 20 2) Defendants' request for attorney's fees and costs is GRANTED. Defendants shall
21 file a Supplemental Motion for Attorney's Fees, supported with a Declaration of its
22 fees associated with their Motion to Compel **no later than fourteen (14) days from**
23 **the date of this Order.** That motion shall be noted for the second Friday after it is
24 filed. Plaintiff may file a Response no later than the Monday before the noting date,
25 addressing only the reasonableness of the fees requested. No Reply shall be filed
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1 3) The Clerk SHALL send a copy of this Order to Plaintiff at PMB 6169, PO BOX 257,
2 Olympia, WA 98507.

3 DATED this 26 day of March, 2018.

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7 RICARDO S. MARTINEZ
8 CHIEF UNITED STATES DISTRICT JUDGE
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