

**U.S. District Court  
District of Oregon (Eugene (6))  
CIVIL DOCKET FOR CASE #: 6:19-cv-00556-AA**

Wyatt B. et al v. Brown et al  
Assigned to: Judge Ann L. Aiken  
Cause: 42:1983 Civil Rights Act

Date Filed: 04/16/2019  
Jury Demand: None  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: Federal Question

**Plaintiff**

**Wyatt B.**  
*by their next friend Michelle McAllister*

represented by **Anastasia Benedetto**  
A Better Childhood  
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Floor 16  
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**LEAD ATTORNEY**  
**PRO HAC VICE**  
**ATTORNEY TO BE NOTICED**

**Dawn J. Post**  
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**Plaintiff**

**Noah F.**  
*by their next friend Michelle McAllister*

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**Paul J.C. Southwick**  
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**Thomas Stenson**  
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*ATTORNEY TO BE NOTICED*

**Plaintiff**

**Kylie R.**  
*by their next friend Kathleen Megill  
Strek*

represented by **Anastasia Benedetto**  
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**Dawn J. Post**  
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**Thomas Stenson**  
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**Plaintiff**

**Alec R.**  
*by their next friend Kathleen Megill*  
*Strek*

represented by **Anastasia Benedetto**  
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*ATTORNEY TO BE NOTICED*

**Thomas Stenson**  
(See above for address)

ATTORNEY TO BE NOTICED

**Plaintiff**

**Unique L.**  
*by her next friend Annette Smith*

represented by **Anastasia Benedetto**  
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**Paul J.C. Southwick**  
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**Thomas Stenson**  
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*ATTORNEY TO BE NOTICED*

**Plaintiff**

**Simon S.**  
*by his next friend Paul Aubry*

represented by **Anastasia Benedetto**  
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**Paul J.C. Southwick**  
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*ATTORNEY TO BE NOTICED*

**Thomas Stenson**  
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*ATTORNEY TO BE NOTICED*

**Plaintiff**

**Ruth T.**  
*by her next friend Michelle Bartov*

represented by **Anastasia Benedetto**  
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**Thomas Stenson**  
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**Plaintiff**

**Bernard C.**  
*by his next friend Ksen Murry*

represented by **Anastasia Benedetto**  
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*ATTORNEY TO BE NOTICED*

**Thomas Stenson**  
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*ATTORNEY TO BE NOTICED*

**Plaintiff**

**Naomi B.**  
*by her next friend Kathleen Megill Streck*

represented by **Anastasia Benedetto**  
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**Thomas Stenson**  
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*ATTORNEY TO BE NOTICED*

**Plaintiff**

**Norman N.**  
*by his next friend Tracy Gregg,*  
*individually and on behalf of all others*  
*similarly situated*

represented by **Anastasia Benedetto**  
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**Paul J.C. Southwick**  
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**Thomas Stenson**  
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V.

**Defendant**

**Kate Brown**  
*Governor of Oregon in her official  
capacity*

represented by **Carla Scott**  
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**Defendant**

**Fariborz Pakseresht**

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**Anna Marie Joyce**  
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**David B. Markowitz**  
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**Harry B. Wilson**  
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**Lauren F. Blaesing**  
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**Sheila H. Potter**  
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*ATTORNEY TO BE NOTICED*

**Defendant**

**Jana McLellan**  
*Interim Director, Child Welfare in her  
official capacity*

represented by **Carla Scott**  
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**Anna Marie Joyce**  
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**Sheila H. Potter**  
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**Defendant**

**Oregon Dept. of Human Services**

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**Anna Marie Joyce**  
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**David B. Markowitz**  
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**Sheila H. Potter**  
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Date Filed	#	Docket Text
04/16/2019	<u>1</u>	Complaint. ( <i>CLASS ACTION COMPLAINT</i> ) Filing fee in the amount of \$400 collected. Agency Tracking ID: 0979-5813152 Jury Trial Requested: No. Filed by Simon S., Kylie R., Ruth T., Naomi B., Noah F., Bernard C., Wyatt B., Alec R., Norman N., Unique L. against Kate Brown, Marilyn Jones, Oregon Dept. of Human Services, Fairborz Pakseresht. (Southwick, Paul) (Entered: 04/16/2019)
04/16/2019	<u>2</u>	Civil Cover Sheet regarding Complaint, <u>1</u> . Filed by Naomi B., Wyatt B., Bernard C., Noah F., Unique L., Norman N., Alec R., Kylie R., Simon S., Ruth T.. (Southwick, Paul) (Entered: 04/16/2019)
04/16/2019	<u>3</u>	CASE MANAGEMENT ORDER. Signed on 4/16/2019 by Judge Ann L. Aiken. (ck) (Entered: 04/16/2019)
04/16/2019	<u>4</u>	Notice of Case Assignment to Judge Ann L. Aiken and Discovery and Pretrial Scheduling Order. <b>NOTICE: Counsel shall print and serve the summonses and all documents issued by the Clerk at the time of filing upon all named parties in accordance with Local Rule 3-5.</b> Discovery is to be completed by 8/14/2019. Joint Alternate Dispute Resolution Report is due by 9/13/2019. Pretrial Order is due by 9/13/2019. Ordered by Judge Ann L. Aiken. (bd) (Entered: 04/16/2019)
04/25/2019	<u>5</u>	Notice of Appearance of Carla Scott appearing on behalf of All Defendants Filed by on behalf of All Defendants. (Scott, Carla) (Entered: 04/25/2019)
05/01/2019	<u>6</u>	Waiver of Service of Summons Returned Executed by All Defendants. Filed by All Plaintiffs. (Chaimov, Gregory) (Entered: 05/01/2019)
05/03/2019	<u>7</u>	Motion for Leave to Appear Pro Hac Vice for Attorney Dawn Post . Filing fee in the amount of \$300 collected; Agency Tracking ID: 0979-5838970. Filed by All Plaintiffs. (Southwick, Paul) (Entered: 05/03/2019)
05/03/2019	<u>8</u>	Motion for Leave to Appear Pro Hac Vice for Attorney Marcia Robinson Lowry . Filing fee in the amount of \$300 collected; Agency Tracking ID: 0979-5838991. Filed by All Plaintiffs. (Southwick, Paul) (Entered: 05/03/2019)
05/03/2019	<u>9</u>	Motion for Leave to Appear Pro Hac Vice for Attorney Anastasia Benedetto . Filing fee in the amount of \$300 collected; Agency Tracking ID: 0979-5839007. Filed by All Plaintiffs. (Southwick, Paul) (Entered: 05/03/2019)
05/03/2019	<u>10</u>	<b>ORDER:</b> Granting Application for Special Admission <i>Pro Hac Vice</i> of Dawn J. Post for Naomi B., Wyatt B., Bernard C., Noah F., Unique L., Norman N., Alec R., Kylie R., Simon S., and Ruth T. Application Fee in amount of \$300 collected. Receipt No. 0979-5838970 issued. Signed on 5/3/2019 by Judge Ann L. Aiken. (ck) (Entered: 05/03/2019)
05/03/2019	11	Notification of CM/ECF Account for Dawn J. Post ( <i>Pro Hac Vice</i> admission). Your login is: <b>djpost</b> . Go to <a href="#">the CM/ECF login page</a> to set your password. (ck) (Entered: 05/03/2019)
05/06/2019	<u>12</u>	<b>ORDER:</b> Granting Application for Special Admission <i>Pro Hac Vice</i> of Marcia Robinson Lowry for Naomi B., Wyatt B., Bernard C., Noah F., Unique L., Norman N., Alec R., Kylie R., Simon S., and Ruth T. Application Fee in amount of \$300 collected. Receipt No. 0979-5838991 issued. Signed on 5/6/2019 by Judge Ann L. Aiken. (ck) (Entered: 05/06/2019)
05/06/2019	13	Notification of CM/ECF Account for Marcia Robinson Lowry ( <i>Pro Hac Vice</i> admission). Your login is: <b>mrlowry</b> . Go to <a href="#">the CM/ECF login page</a> to set your password. (ck) (Entered: 05/06/2019)
05/06/2019	<u>14</u>	<b>ORDER:</b> Granting Application for Special Admission <i>Pro Hac Vice</i> of Anastasia Benedetto for Naomi B., Wyatt B., Bernard C., Noah F., Unique L., Norman N., Alec R., Kylie R., Simon S., and Ruth T. Application Fee in amount of \$300 collected. Receipt No. 0979-5839007 issued. Signed on 5/6/2019 by Judge Ann L. Aiken. (ck) (Entered: 05/06/2019)
05/06/2019	15	Notification of CM/ECF Account for Anastasia Benedetto ( <i>Pro Hac Vice</i> admission). Your login is: <b>abenedetto</b> . Go to <a href="#">the CM/ECF login page</a> to set your password. (ck) (Entered: 05/06/2019)

05/30/2019	<u>16</u>	SCHEDULING ORDER by Judge Acosta – SETTING an initial Settlement Conference for Monday, June 24, 2019, in Judge Acosta's chambers on the 11th floor of the Mark O. Hatfield United States Courthouse, 1000 SW Third Avenue, Portland, Oregon 97204; Plaintiffs to arrive at 9:00AM and Defendants at 9:45AM. Subsequent sessions are reserved for a 9:00AM start times on Thursday, July 11th, Friday, July 12th, and Monday, August 12th. (peg) (Entered: 05/30/2019)
06/14/2019	<u>17</u>	Notice of Appearance of David B. Markowitz appearing on behalf of All Defendants Filed by on behalf of All Defendants. (Markowitz, David) (Entered: 06/14/2019)
06/14/2019	<u>18</u>	Notice of Appearance of Laura R. Salerno Owens appearing on behalf of All Defendants Filed by on behalf of All Defendants. (Salerno Owens, Laura) (Entered: 06/14/2019)
06/14/2019	<u>19</u>	Notice of Appearance of Anna Marie Joyce appearing on behalf of All Defendants Filed by on behalf of All Defendants. (Joyce, Anna) (Entered: 06/14/2019)
06/14/2019	<u>20</u>	Notice of Appearance of Harry B. Wilson appearing on behalf of All Defendants Filed by on behalf of All Defendants. (Wilson, Harry) (Entered: 06/14/2019)
06/14/2019	<u>21</u>	Notice of Appearance of Lauren F. Blaesing appearing on behalf of All Defendants Filed by on behalf of All Defendants. (Blaesing, Lauren) (Entered: 06/14/2019)
06/14/2019	<u>22</u>	Unopposed Motion for Extension of Time to Answer <i>or Otherwise Respond to Plaintiffs' Complaint, and Supporting Memorandum</i> Complaint, <u>1</u> . Expedited Hearing requested. Filed by All Defendants. (Markowitz, David) (Entered: 06/14/2019)
06/14/2019	23	<b>ORDER:</b> Granting Unopposed Motion for Extension of Time to Answer <u>22</u> . Answer is due by 7/25/2019. Ordered by Judge Ann L. Aiken. (ck) (Entered: 06/14/2019)
06/24/2019	24	<b>MINUTES of Proceedings:</b> Initial Settlement Conference held by Judge Acosta. <b>ORDER:</b> Additional Settlement Conference dates set for 7/11/19, 7/12/19 and 8/12/19, all starting at 9:00AM. Emily Cooper, Paul Southwick, Tom Stenson, Greg Chaimov, Marcia Lowry, Dawn Post present as counsel for plaintiff(s). Lauren Blaesing, David Markowitz, Dustin Buehler, Carla Scott, Laura Salerno Owens, Joanne Southey, Sheila Potter present as counsel for defendant(s). Court Reporter: None. Magistrate Judge John V. Acosta presiding. (peg) (Entered: 06/25/2019)
07/11/2019	25	<b>MINUTES of Proceedings:</b> Second settlement conference session held by Judge Acosta. Case does not settle at this time. The third settlement conference session scheduled for July 12, 2019, is cancelled. The court will keep on its calendar the fourth settlement conference session scheduled for August 12, 2019, should the parties wish to reconvene at that time. Emily Cooper, Paul Southwick, Tom Stenson, Greg Chaimov, Marcia Lowry, Dawn Post and Chris Shank present as counsel for plaintiff(s). Lauren Blaesing, David Markowitz, Dustin Buehler, Carla Scott, Laura Salerno Owens, Joanne Southey and Sheila Potter present as counsel for defendant(s). Court Reporter: None. Magistrate Judge John V. Acosta presiding. (peg) Modified on 7/12/2019 to correct duplicative initial entry.(peg) (Entered: 07/12/2019)
07/16/2019	26	Scheduling Order by Judge Ann L. Aiken. Telephonic Status Conference is set for 7/29/2019 at 09:30AM in Eugene by telephone before Judge Ann L. Aiken. The parties shall call in to the conference. Conference call information will be provided by the Court in a separate entry. The parties are directed to file a Joint Status Report by 7/25/2019. Ordered by Judge Ann L. Aiken. (ck) (Entered: 07/16/2019)
07/17/2019	<u>27</u>	Notice of Association of Attorney Carla Scott,Sheila H. Potter for Kate Brown,Sheila H. Potter for Fairborz Pakseresht,Sheila H. Potter for Oregon Dept. of Human Services,Sheila H. Potter for Marilyn Jones. Filed by Kate Brown, Fairborz Pakseresht, Oregon Dept. of Human Services, Marilyn Jones. (Scott, Carla) (Entered: 07/17/2019)
07/18/2019	<u>28</u>	Notice of Change of Address Filed by All Defendants. (Blaesing, Lauren) (Entered: 07/18/2019)
07/23/2019	<u>29</u>	Stipulated Motion to Substitute a Party <i>and Change Case Caption</i> . Filed by All Defendants. (Joyce, Anna) (Entered: 07/23/2019)

07/23/2019	30	<b>ORDER:</b> Granting Stipulated Motion to Substitute a Party and Change Case Caption <u>29</u> . Ordered by Judge Ann L. Aiken. (ck) (Entered: 07/23/2019)
07/25/2019	<u>31</u>	Motion to Dismiss for Failure to State a Claim , Motion for a More Definite Statement <i>Defendants' Motion to Dismiss Or, In the Alternative, to Make More Definite and Certain</i> . Oral Argument requested. Filed by All Defendants. (Joyce, Anna) (Entered: 07/25/2019)
07/25/2019	<u>32</u>	Declaration of Anna M. Joyce <i>in Support of Motion to Dismiss or, in the Alternative, to Make More Definite and Certain</i> . Filed by All Defendants. (Related document(s): Motion to Dismiss for Failure to State a Claim., Motion for more definite statement, <u>31</u> .) (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3) (Joyce, Anna) (Entered: 07/25/2019)
07/29/2019	33	<b>MINUTES of Proceedings:</b> Telephonic Status Conference held before Judge Ann L. Aiken. The parties report that their Rule 26(f) conference is scheduled for 7/30/2019 and they are planning on a trial date in October, 2020. The parties shall submit a joint proposed scheduling order for the Court's review. A further Telephonic Status Conference is set for 9/6/2019 at 09:15AM in Eugene by telephone before Judge Ann L. Aiken. The parties shall call in to the conference. Conference call information will be provided by the Court in a separate entry. Dawn Post, Gregory Chaimov, Marcia Lowry, Emily Cooper present as counsel for plaintiffs. Carla Scott, David Markowitz, Laura Salerno Owens, Lauren Blaesing, Elleanor Chin present as counsel for defendants. Court Reporter: Sara Wilson. (ck) (Entered: 07/29/2019)
08/02/2019	<u>34</u>	Fed. R. Civ. P. 26(a)(1) Agreement . Filed by Kate Brown, Jana McLellan, Oregon Dept. of Human Services, Fairborz Pakseresht. (Blaesing, Lauren) (Entered: 08/02/2019)
08/08/2019	<u>35</u>	Response to Motion to Dismiss for Failure to State a Claim Motion for a More Definite Statement <i>Defendants' Motion to Dismiss Or, In the Alternative, to Make More Definite and Certain</i> <u>31</u> . Filed by Naomi B., Wyatt B., Bernard C., Noah F., Unique L., Norman N., Alec R., Kylie R., Simon S., Ruth T.. (Southwick, Paul) (Entered: 08/08/2019)
08/08/2019	36	SCHEDULING ORDER by Judge Acosta – STRIKING the Settlement Conference date of 8/12/19, from Judge Acosta's calendar, as the parties do not wish to proceed in that direction at this time. (peg) (Entered: 08/08/2019)
08/08/2019	<u>37</u>	Motion to Strike Motion to Dismiss for Failure to State a Claim Motion for a More Definite Statement <i>Defendants' Motion to Dismiss Or, In the Alternative, to Make More Definite and Certain</i> <u>31</u> . Oral Argument requested. Filed by All Plaintiffs. (Southwick, Paul) (Entered: 08/08/2019)
08/15/2019	<u>38</u>	Joint Status Report <i>and Discovery Plan</i> . Filed by All Defendants. (Blaesing, Lauren) (Entered: 08/15/2019)
08/15/2019	<u>39</u>	Stipulated Motion for Protective Order <i>Stipulated Protective Order</i> . Filed by All Defendants. (Blaesing, Lauren) (Entered: 08/15/2019)
08/15/2019	<u>40</u>	<b>ORDER:</b> Granting Stipulated Motion for a Protective Order <u>39</u> . Signed on 8/15/2019 by Judge Ann L. Aiken. (ck) (Entered: 08/15/2019)
08/15/2019	41	Scheduling Order by Judge Ann L. Aiken. The Court is in receipt of the parties' Joint Status Report and Discovery Plan <u>28</u> and adopts the proposed deadlines as follows: Motion for class certification is due by 10/8/2019. Defendants' opposition to class certification is due by 12/6/2019. Plaintiffs' reply in support of class certification is due by 12/20/2019. Discovery is to be completed by 4/1/2020. Expert reports are to be exchanged by 6/3/2020. Expert response reports are to be exchanged by 7/1/2020. Expert Discovery is to be completed by 7/15/2020. Dispositive Motions are due by 8/7/2020. Responses to Dispositive Motions are due by 8/28/2020. Replies to Dispositive Motions are due by 9/11/2020. Ordered by Judge Ann L. Aiken. (ck) (Entered: 08/15/2019)
08/22/2019	<u>42</u>	Unopposed Motion <i>to Correct Caption</i> . Filed by All Defendants. (Joyce, Anna) (Entered: 08/22/2019)

08/22/2019	43	<b>ORDER:</b> Granting Unopposed Motion to Correct Caption <u>42</u> . Defendant Fairborz Pakseresht will be corrected to Fariborz Pakseresht. Ordered by Judge Ann L. Aiken. (ck) (Entered: 08/22/2019)
08/22/2019	<u>44</u>	Response in Opposition to Plaintiff's Motion to Strike to Motion to Strike Motion to Dismiss for Failure to State a Claim Motion for a More Definite Statement Defendants' Motion to Dismiss Or, In the Alternative, to Make More Definite and Certain <u>31 37</u> . Filed by All Defendants. (Joyce, Anna) (Entered: 08/22/2019)
08/22/2019	<u>45</u>	Reply in Support of to Motion to Dismiss for Failure to State a Claim Motion for a More Definite Statement Defendants' Motion to Dismiss Or, In the Alternative, to Make More Definite and Certain <u>31</u> . Filed by All Defendants. (Joyce, Anna) (Entered: 08/22/2019)
09/05/2019	<u>46</u>	Reply to Motion to Strike Motion to Dismiss for Failure to State a Claim Motion for a More Definite Statement Defendants' Motion to Dismiss Or, In the Alternative, to Make More Definite and Certain <u>31 37</u> . Filed by All Plaintiffs. (Chaimov, Gregory) (Entered: 09/05/2019)
09/06/2019	47	<b>MINUTES of Proceedings:</b> Telephonic Status Conference held before Judge Ann L. Aiken. The disputed case management issues are discussed as stated on the record. The Court takes the matters of a protective order and the total number of hours for non-expert depositions per side under advisement. Formal Written Order to follow. Dawn Post, Marcia Lowry, Emily Cooper, Paul Southwick, Thomas Stenson present as counsel for plaintiffs. Anna Joyce, David Markowitz, Sheila Potter present as counsel for defendants. Court Reporter: Deborah Cook. (ck) (Entered: 09/06/2019)
09/12/2019	<u>48</u>	Motion for Protective Order and Memorandum in Support. Oral Argument requested. Expedited Hearing requested. Filed by All Defendants. (Blaesing, Lauren) (Entered: 09/12/2019)
09/12/2019	<u>49</u>	Order and Opinion. The total number of hours for non-expert deposition testimony is set initially at 100 hours per side. The Court will enter an Amended Protective Order which shall not change the agreed procedures for designation of information as confidential or AEO. The amended order shall allow the parties to use information derived from confidential reports in public filings in this litigation. Signed on 9/12/2019 by Judge Ann L. Aiken. (plb) (Entered: 09/12/2019)
09/12/2019	<u>50</u>	Amended Stipulated Protective Order. Signed on 9/12/2019 by Judge Ann L. Aiken. (plb) (Entered: 09/12/2019)
09/12/2019	51	<b>ORDER:</b> The Court has reviewed the parties' September 6, 2019 letter regarding their most recent discovery dispute. Having considered the arguments presented, and noting that defendants' representation that they will agree to extend other case deadlines as necessary, the Court orders that the deposition currently scheduled for September 16, 2019 be continued to a new date. The parties shall confer and set a mutually agreed upon date for the deposition to take place within thirty days of this order. The Court will set prompt status conferences to deal with any further disputes. The Court DENIES defendant's Motion for a Protective Order as moot <u>48</u> . Ordered on 9/12/2019 by Judge Ann L. Aiken. (rdr) Modified on 9/12/2019 to correct a transcription error. (rdr). (Entered: 09/12/2019)
09/25/2019	52	Order. The discovery dispute submitted by the parties through joint letter on September 23, 2019, is referred to Magistrate Judge Thomas Coffin for hearing and disposition. Ordered on 9/25/2019 by Judge Ann L. Aiken. (rdr) (Entered: 09/25/2019)
09/26/2019	53	Scheduling Order by Magistrate Judge Thomas M. Coffin. Telephonic Status Conference is set for 10/1/2019 at 11:00AM in Eugene by telephone before Magistrate Judge Thomas M. Coffin. The parties shall call in to the conference. Conference call information will be provided in a separate entry. Ordered by Magistrate Judge Thomas M. Coffin. (ck) (Entered: 09/26/2019)