
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

FORM 8-K

**CURRENT REPORT
Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934**

Date of Report (date of earliest event reported) September 26, 2019

electroCore, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation or organization)

001-38538
(Commission
File Number)

20-3454976
(I.R.S. Employer
Identification Number)

150 Allen Road, Suite 201
Basking Ridge, NJ 07920
(Address of principal executive offices and zip code)

(973) 290-0097
(Registrant's telephone number, including area code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading symbol(s)	Name of each exchange on which registered
Common Stock, Par Value \$0.001 Per Share	ECOR	NASDAQ Global Select Stock Market

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

On September 26, 2019, electroCore, Inc. (the “Company”) entered into an Offer Letter providing for the appointment of Daniel Goldberger, 60, as Chief Executive Officer and as a member of the Board of Directors (the “Board”) of the Company, effective as of October 1, 2019. As a Class I director, Mr. Goldberger’s term lasts until the Company’s 2022 annual meeting of stockholders.

Since January 2018, Mr. Goldberger served as the Chief Executive Officer of Synergy Disc Replacement Inc., a private company commercializing a proprietary total disc implant for cervical spine therapy. In connection with his appointment as Chief Executive Officer of the Company, Mr. Goldberger is stepping down as CEO of Synergy Disc. Since April 2018, Mr. Goldberger also has served at Repro Med Systems, Inc. (“Repro Med”), a public medical device company with a focus on ambulatory infusion, where he has held the positions of lead independent director, interim chief executive officer and director, now serving as its executive chairman. In connection with his appointment as Chief Executive Officer of the Company, Mr. Goldberger is stepping down as executive chairman of Repro Med but is expected to continue serving as a non-executive director. From July 2017 to September 2017, Mr. Goldberger served as chief executive officer of Milestone Medical, Inc. Prior to this he served as the chief executive officer of Xtant Medical Holdings, Inc. from August 2013 to January 2017. He also served as the chief executive officer of Sound Surgical Technologies LLC from April 2007 to February 2013. Mr. Goldberger also served on the boards of Xtant Medical Holdings, Inc., Sound Surgical, Xcorporeal and Glucon. He currently serves as an advisor to investment funds Meridian Capital and Wellfleet Capital. Mr. Goldberger earned a B.S. in Mechanical Engineering from The Massachusetts Institute of Technology, and a M.S. in Mechanical Engineering from Stanford University.

Mr. Goldberger has no family relationships with any of the Company’s directors or executive officers, and he is not a party to, and does not have any direct or indirect material interest in, any transaction requiring disclosure under Item 404(a) of Regulation S-K. There are no arrangements or understandings between Mr. Goldberger and any other persons pursuant to which he was selected as a director.

Pursuant to his Offer Letter (the “Agreement”), Mr. Goldberger will serve as Chief Executive Officer of the Company effective as of October 1, 2019 (the “Start Date”), and will be paid an annual base salary of \$500,000, as the same may be adjusted in the Company’s discretion. In addition, Mr. Goldberger is entitled to receive, subject to employment by the Company on the applicable date of bonus payout, an annual target discretionary bonus of up to 50% of his annual base salary, payable at the discretion of the Board or the Compensation Committee of the Board. Pursuant to the Agreement, Mr. Goldberger is also eligible to receive healthcare benefits as may be provided from time to time by the Company to its employees generally, to participate in the Company’s 401(k) plan and to receive paid time off annually in accordance with the Company’s policies in effect from time to time. Additionally, the Offer Letter provides Mr. Goldberger with expense reimbursement for up to \$100,000 of moving expenses.

Pursuant to the Agreement, Mr. Goldberger was granted a long-term equity incentive grant and a one-time new hire equity incentive grant, in the form of an option to purchase shares of the Company’s common stock having an aggregate estimated value of \$1,200,000 on the Start Date and 215,053 restricted stock units (“RSUs”). Such option and the RSUs vest 25% on each of the four year anniversaries of the Start Date, subject to Mr. Goldberger’s continued employment by the Company on the applicable vesting date. Mr. Goldberger’s option grant has an exercise price per share equal to \$1.86, which was the closing price of the Company’s common stock on the Nasdaq Stock Market on the grant date.

Pursuant to the Agreement, Mr. Goldberger agreed to be bound by the Company’s standard Employee Confidentiality and Assignment Agreement, including the non-compete and non-solicitation covenants contained therein. As additional consideration for such covenants, the Company agreed, pursuant to the Agreement, that Mr. Goldberger will be covered by the Company’s Executive Severance Policy, as such policy may be in effect from time to time. Additionally, Mr. Goldberger and the Company entered into the Company’s standard form of indemnification agreement for directors and executive officers.

The foregoing description of the Agreement is qualified in its entirety by reference to the text of such agreement, which is filed as Exhibit 10.1 to this Current Report on Form 8-K and incorporated herein by reference.

Effective as of the Start Date, and as previously disclosed pursuant to the Separation and Release Agreement dated June 10, 2019, Francis Amato is no longer serving as the Chief Executive Officer or a member of the Board. Mr. Amato’s resignation is not the result of any disagreement with the Company relating to the Company’s operations, policies or practices.

Item 8.01. Other Events

On September 26, 2019, a purported stockholder of the Company served a putative class action lawsuit in the United States District Court for the District of New Jersey captioned *Allyn Turnofsky vs. electroCore, Inc., et al., Case 3:19-cv-18400*. In addition to the Company, the defendants include present and past directors and officers and the underwriters for the Company's initial public offering. The plaintiff seeks to represent a class of stockholders who (i) purchased common stock of the Company in its initial public offering (the "IPO") or whose purchases are traceable to the IPO, or (ii) who purchased common stock of the Company between the IPO and September 25, 2019. The complaint alleges that the defendants violated Sections 11 and 15 of the Securities Act of 1933 and Sections 10(b) and 20(a) of the Exchange Act of 1934, with respect to (i) the registration statement and related prospectus for the IPO, and (ii) certain later public disclosures. The complaint seeks unspecified compensatory damages, interest, costs and attorneys' fees. The Company intends to vigorously defend itself; however, in light of, among other things, the preliminary stage of the litigation, the Company is unable to provide any assurances as to the ultimate outcome of the lawsuit and is unable to make a meaningful estimate of the amount or range of loss, if any, that could result from an unfavorable outcome.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

<u>Exhibit No.</u>	<u>Description of Exhibit</u>
10.1	Offer Letter, dated as of September 26, 2019

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

October 2, 2019

electroCore, Inc.

/s/ Brian Posner

Brian Posner

Chief Financial Officer



150 Allen Road, Suite 201
Basking Ridge, New Jersey 07920 USA
Phone: 973-290-0097

September 26, 2019

Daniel S. Goldberger
644 College Avenue
Boulder, CO 80302

Dear Dan,

On behalf of electroCore, Inc., a Delaware corporation (the "Company", "we" or "our"), I am pleased to offer you ("you" or the "Executive") a position as Chief Executive Officer of the Company effective as of October 1, 2019 (the "Start Date"). This offer and your employment are subject to the successful completion of the Company's standard background check. In this role, you will serve as the Chief Executive Officer of the Company eligible for the benefits provided herein and report directly to the Company's Board of Directors (the "Board").

This letter, when signed by you, will constitute our agreement (the "Agreement") concerning your role as an employee of the Company.

1. **Duties; Termination.** During the term of this Agreement, you hereby agree to serve in the capacity noted above (or such other capacity as we shall mutually hereafter agree) and to perform such services as are customarily required of such position and as are assigned to you by the Board.

As of the Start Date, and through the remainder of your term of employment with the Company, you shall devote your full business time and attention to your duties to the Company and its subsidiaries and affiliates, and shall perform your duties to the Company faithfully, competently, diligently and to the best of your ability, and subject to, and in accordance with, all of the Company's policies, rules, code of conduct and ethics, and regulations as are in effect from time to time, and you shall not engage in any other business activities without the prior written consent of the Board; provided that you may serve as a non-executive member of the Board of Directors of Repro Med Systems, Inc. d/b/a RMS Medical Products ("RMS") provided such activities do not materially interfere with your duties to the Company. You agree to promptly resign your Executive Chairman position with RMS and all of your positions with Synergy Disc Replacement, Inc. Upon the Start Date, you shall be appointed as a member of the Board, for which you will receive no additional consideration.

Either party may terminate this Agreement at any time by providing the other with not less than four (4) weeks prior written notice of such termination, subject to the terms of the Company's Executive Severance Policy as in effect from time to time (the "Severance Policy"). You agree to resign from the Board, and from the board or similar governing body of any subsidiary or affiliate of the Company, upon the termination of your employment with the Company for any reason, and you shall promptly execute any and all documents necessary to effectuate such resignation(s) at such time.

2. Compensation. As full compensation for your services to the Company hereunder and in consideration of the other covenants contained or referenced herein, you shall receive:

(a) during the term of your employment, an annual salary of \$500,000, less applicable withholding taxes and other deductions, paid semi-monthly in accordance with the Company's customary payroll practices (as such amount may be increased from time to time at the Company's discretion);

(b) during the term of your employment, an annual target discretionary bonus of 50% of your annual base salary payable at the discretion of the Board, which shall be based on Company performance and other criteria for each calendar year determined by the Board; provided that, assuming your employment start date is not later than October 1, 2019, your bonus in respect of your services to the Company from and after the Start Date for the remainder of calendar year 2019 shall not be less than \$62,500. Annual bonuses will be paid in the calendar year following the year in respect of which it is earned at the same time that the Company normally pays bonuses, if any, to other senior executives. Bonus goals and objectives for 2020 and beyond will be established by the Board with input from the Compensation Committee of the Board. You must be employed with the Company at the time of the payout date of any bonus opportunity in order to receive any bonus payout and in no event will any bonus be due or payable in the event of a termination of your employment for Cause (as defined in the Severance Policy);

(c) during the term of your employment, eligibility to participate in the Company's employee benefit plans applicable to employees and officers as in effect from time to time, including the Company's healthcare benefit plans, the Severance Policy, 401(k) plan and paid time off (PTO) annually in accordance with the Company's policies in effect from time to time, provided that the Executive shall be entitled to four weeks of paid vacation per year. A package describing certain of these benefits will be provided to you;

(d) a long-term equity incentive grant for services to be rendered for the balance of 2019 and for 2020 comprised of a combination of restricted stock units ("RSUs") and an option to purchase common stock of the Company (an "Option") pursuant to the Company's 2018 Omnibus Equity Incentive Compensation Plan (the "Equity Plan"). The RSUs and Option shall have an aggregate estimated value of \$1,100,000 on the Start Date, with 75% of such value being attributable to the Option based on its Black-Scholes value and 25% of such value being attributable to the RSUs based on the present market value of the underlying common stock of the Company, in each case as of the Start Date. Both the Option and the RSUs shall vest 25% on each of the first four annual anniversaries of the Start Date (subject to your being employed by the Company on any applicable vesting date). The Option grant will have an initial term of 10 years and shall be made pursuant to the Company's standard Stock Option Agreement (a copy of which will be provided to you and which you will be required to execute as a condition to such grant) and the Equity Plan with an initial exercise price per share of Company common stock based on the closing price on the Start Date of the Company's common stock on the Nasdaq Stock Market or such other national market on which the Company's stock then trades)(the "Grant Price"); and the RSUs will be made pursuant to the Company's standard RSU award agreement. Any long term equity incentive award for years 2021 and beyond will be made in accordance with our standard employee incentive plans as in effect from time to time;

(e) a one-time new hire equity incentive grant comprised of a combination of RSUs (the “Inducement RSUs”) and an option (the “Inducement Option”) to purchase common stock of the Company with the same terms, including as to vesting, as the RSUs and Options referenced in clause (d) above, having an aggregate estimated value of \$500,000 on the Start Date, with 75% of such value being attributable to the Inducement Option based on its Black-Scholes value and 25% of such value being attributable to the Inducement RSUs based on the Grant Price, in each case as of the Start Date; and

(f) reimbursement from time to time as incurred for the reasonable out-of-pocket moving expenses incurred to relocate your family and physical possessions from Colorado to New Jersey, such reimbursement to be made in accordance with the Company’s standard expense reimbursement policies, and not to exceed \$100,000 in the aggregate.

3. At-Will Employment. You acknowledge and agree that your employment with the Company is “at will,” meaning that either you or the Company (acting through its Board or an officer expressly authorized to so act) may terminate your employment with the Company at any time and for any reason (or no reason) upon not less than four (4) weeks prior written notice to the other party, subject to the terms of the Severance Policy.

4. Confidential Information and IP Assignment; Severance Policy. You hereby agree to execute and be bound by the Company’s standard Employee Confidentiality and Assignment Agreement, a copy of which is attached hereto. You acknowledge that such agreement contains certain post-employment restrictions, including a non-compete and non-solicitation agreement. As additional consideration for such covenants, the Company agrees that you shall be covered by the Severance Policy, as such policy may be in effect from time to time. A copy of the Severance Policy, as currently in effect, has been provided to you. You acknowledge and agree that the Company reserves the right to amend such policy from time to time or to terminate such policy; provided, that no such amendment or termination shall reduce the amount of severance benefits payable to you upon an involuntary termination of employment, or otherwise be amended in a manner materially adverse to you, without your prior consent.

5. Miscellaneous. This Agreement, together with the documents referred to herein, contains the entire agreement of the parties with respect to the subject matter hereof and may be amended only by a written instrument signed by you and the Company. Because of the personal nature of the services to be rendered by you under this Agreement, you may not assign this agreement without the prior written consent of the Company. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.



150 Allen Road, Suite 201
Basking Ridge, New Jersey 07920 USA
Phone: 973-290-0097

6. Governing Law; Jurisdiction. This Agreement shall be governed in accordance with the laws of the State of New Jersey. The parties hereto consent to the jurisdiction of the courts of the State of New Jersey for all disputes arising pursuant to this Agreement.

If you agree with the foregoing terms, please indicate such agreement by signing the enclosed duplicate original of this letter in the space provided and returning it to the Company.

Very truly yours,

electroCore, Inc.

By: /s/ Trevor Moody

Name: Trevor Moody

Title: Director

Acknowledged and Agreed:

/s/ Daniel S. Goldberger

Daniel S. Goldberger