

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA
ex rel. CLARISSA ZAFIROV,

Relator/Plaintiff,
v.

CASE NO. 8:19-cv-1236-KKM-SPF

PHYSICIAN PARTNERS, LLC;
FLORIDA MEDICAL ASSOCIATES,
LLC d/b/a VIPCARE; ANION
TECHNOLOGIES, LLC; FREEDOM
HEALTH, INC.; and OPTIMUM
HEALTHCARE, INC.,

Defendants.

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ORDER

Before the Court is Defendants Freedom Health, Inc. and Optimum Healthcare, Inc.'s Motion to Quash Relator's Third-Party Subpoena and Motion for Protective Order (Doc. 306), Proposed Fact Witness Mital Panara's Joinder in Defendants Freedom Health, Inc. and Optimum Healthcare, Inc.'s Motion to Quash Relator's Third-Party Subpoena (Doc. 309), and Relator's Opposition to Freedom Defendants' Motion to Quash and Motion for Protective Order (Doc. 311). Upon consideration, the Court finds that Defendants' and Mr. Panara's motions are due to be DENIED.

The discovery deadline in this case was May 29, 2024, although the parties agreed to a series of depositions occurring through June 14, 2024. Mital Panara, a former employee of Freedom Defendants, was one of the witnesses Relator intended to depose during this period. Because Mr. Panara is no longer employed by Freedom Defendants, Freedom Defendants' counsel provided Mr. Panara's contact information to Ryan Stumphauzer—outside counsel

who has been representing various other former-employee witnesses. On May 3, 2024, Relator inquired whether Freedom Defendants were available for the deposition of Mr. Panara to take on June 10, 2024. Freedom Defendants confirmed their availability, and assumed that Relator had cleared this date with Mr. Panara through Mr. Stumphauzer. As the deposition date was approaching, Relator apparently became aware that Mr. Stumphauzer had not been able to contact Mr. Panara, and as such, the witness was unaware of the deposition. As such, the June 10 deposition was canceled, and Relator informed Defendants that it would be reset after Mr. Stumphauzer was able to contact Mr. Panara. After Mr. Stumphauzer remained unable to reach Mr. Panara, he informed Relator's counsel that it would be "doubtful" that he would be representing him (Doc. 311 at 7). Ultimately, Relator personally served Mr. Panara with a subpoena on June 18, 2024 for a deposition to occur on June 28, 2024 (Doc. 306-2). Now, Freedom Defendants move to quash the subpoena as untimely (Doc. 306). Mr. Panara has filed a joinder to Freedom Defendants' motion, arguing that the subpoena should be quashed because he did not have fourteen days' notice of the June 28 deposition, as required by Local Rule 3.04 (Doc. 309). *See* L.R. 3.04, M.D. Fla. ("A deposition by oral examination or written questions and a subpoena duces tecum require fourteen days' written notice to the deponent or responding person."). All parties have agreed to reschedule the June 28 deposition in the event the Court denies Freedom Defendants' and Mr. Panara's motions.

The Court finds that Relator has acted in good faith in attempting to timely schedule Mr. Panara's deposition. Considering Freedom Defendants' awareness that Mr. Panara would be deposed after the discovery deadline, the Court does not find that good cause to issue a protective order exists. This delay in scheduling Mr. Panara's deposition will not

prejudice Freedom Defendants. This is particularly true considering that, although the discovery deadline has passed, the parties are likely to have to continue to partake in discovery considering the various other discovery issues pending before the Court. Moreover, the Court also notes that all other deadlines in the case are stayed, so this deposition will not prejudice any party's ability to prepare dispositive motions or prepare for trial. Finally, while the concern regarding the date of the deposition is well-taken, considering Mr. Panara only had ten-days' notice, the Court finds this issue is now moot based on the parties' collective agreement to reschedule the deposition.

Accordingly, it is hereby **ORDERED**:

- (1) Defendants Freedom Health, Inc. and Optimum Healthcare, Inc.'s Motion to Quash Relator's Third-Party Subpoena and Motion for Protective Order (Doc. 306) is **DENIED**.
- (2) Proposed Fact Witness Mital Panara's Joinder in Defendants Freedom Health, Inc. and Optimum Healthcare, Inc.'s Motion to Quash Relator's Third-Party Subpoena (Doc. 309) is **DENIED**.
- (3) Relator may take the deposition of Mital Panara on or before August 12, 2024, provided Mr. Panara has fourteen days' notice of the deposition.

ORDERED in Tampa, Florida, June 28, 2024.


SEAN P. FLYNN
UNITED STATES MAGISTRATE JUDGE