

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA)	
<i>ex rel.</i> DR. CLARISSA ZAFIROV,)	
)	
Plaintiff/Relator)	
)	
v.)	
)	CASE NO. 8:19-cv-01236
FLORIDA MEDICAL ASSOCIATES, LLC,)	
d/b/a VIPCARE; PHYSICIAN PARTNERS,)	
LLC; ANION TECHNOLOGIES, LLC;)	
FREEDOM HEALTH, INC.; and OPTIMUM)	
HEALTHCARE, INC.,)	
)	
Defendants.)	
_____)	

RELATOR’S OPPOSITION TO FREEDOM DEFENDANTS’ MOTION TO QUASH AND MOTION FOR PROTECTIVE ORDER

I. Introduction

Defendants Freedom Health, Inc. and Optimum Healthcare, Inc. (collectively, “Freedom Defendants”) seek to block the deposition of a relevant witness, Mital Panara, a former employee of Freedom who, throughout the relevant time period, oversaw Freedom’s risk adjustment operations. Freedom Defendants’ motion is a transparent effort to deny Relator an agreed-upon deposition of an agreed-upon witness based solely on a perceived procedural issue which is largely of their own making. As described herein, Mr. Panara was the architect and implementer of a key quality program whereby, *inter alia*, Freedom Defendants abdicated claims review oversight to Provider Defendants for providers identified as the highest-risk for

submission of unsupported claims. Yet, Freedom never identified Mr. Panara as a witness or provided his contact information on their initial or supplemental disclosures, and did not identify him as a custodian for document production purposes.

Despite Freedom's failure to identify Mr. Panara, Relator learned of the import of his role through document production and sought a deposition date for him, which the parties agreed to set for June 10, 2024. All counsel was aware of and confirmed the date, and when Freedom identified that Mr. Panara was no longer employed by the company, Freedom counsel provided the scheduled date to the counsel that Freedom retained for him. It was only when Relator sought to adjust the start time of the deposition that Relator learned that Mr. Panara had been non-responsive to the counsel selected by Freedom. When that counsel ultimately conveyed that he could not reach and therefore would not be representing Mr. Panara, the June 10 deposition was canceled out of necessity and Relator turned to the steps to serve him individually with a deposition subpoena. Per local rules, a Notice of Third Party subpoena was served on Defendants on June 14, 2024. When Freedom Defendants did not respond to that notice, a subpoena was served through a process server on Mr. Panara on June 18, 2024 for a deposition scheduled for June 28, 2024.

Freedom's sole basis for now seeking to quash the subpoena arises from the date the subpoena was served on Mr. Panara. Freedom's representations about Relator's communications with Mr. Panara's designated counsel are incomplete and misleading. Freedom's description of events skips over the role its counsel played in the deposition scheduling, as well as the consistent practices of the parties and outside

counsel in this action as they worked to complete twenty depositions over a period of just over thirty days. Freedom should not now be allowed to exploit a technical violation to block a deposition of a relevant witness where the witness is available and no party can show (or even asserts) any undue prejudice or burden from the deposition proceeding. In fact, critical to their motion, Freedom Defendants do not, and cannot, assert that they did not know that Mr. Panara was identified as a deposition witness, did not know of his deposition, did not have time to prepare questions for it, or would suffer any prejudice or burden from Mr. Panara being deposed pursuant to the current subpoena.

Finally, Freedom Defendants' motion does not acknowledge that the deposition noticed for Friday, June 28, 2024, was postponed off of that date *at the request of Freedom* – not Relator or the witness. While Freedom Defendants represented to Relator that the request was to allow a traditional instead of expedited briefing schedule, their motion failed to convey that to the Court such that the Court was still burdened with an expedited briefing schedule even though there is no longer a time urgency to Freedom's request. Relator conferred with Mr. Panara's current counsel to confirm that the witness is willing to appear at a rescheduled time following the Court's resolution of this motion. Accordingly, should the Court agree with Relator that the deposition of Mr. Panara can proceed as anticipated by all parties, Relator respectfully requests that the order direct that it be held within 45 days of the Court's order on a date mutually agreeable to the parties and the witness.

II. Factual Background

Mital Panara was Vice President for Revenue Management at Freedom and responsible for oversight of the Medicare Risk Adjustment Department. Among other duties, he was the chair of Freedom's Quality Improvement Committee, which was designed to "increase the accuracy and consistency of coding system wide." Other witnesses deposed in this matter have identified that Mr. Panara held roles critical to the allegations of this case. For example, Freedom's 30(b)(6) witness Radha Rai identified Mr. Panara as one of the architects of Freedom's Quality Improvement Program, and one of the individuals who attended regular Joint Operating Committee meeting with Physician Partners. Karen Kelly, former director of Freedom's Medicare Risk Adjustment department, identified Mr. Panara as the individual responsible for which IPA (such as Physician Partners) would be delegated with responsibility to perform a 100% chart review for providers identified for the Freedom's QIP III program for providers with a history of "subpar performance." Despite these key roles, Freedom failed to identify Mr. Panara on its initial or supplemental Rule 26(a) disclosures, nor did they identify him as a document custodian for production purposes.

Due to Freedom's failure to identify Mr. Panara as a key individual, Relator only ascertained the need for his deposition in April 2024 and made the request to Freedom for an available date. On April 11, 2024, Freedom counsel emailed Relator to state that Mr. Panara was no longer employed by Freedom and that they were working to locate his contact information to be provided to an attorney, Ryan

Stumphauzer, who has represented other former Freedom employees in this action; Freedom did not provide any contact information for Mr. Panara to Relator. Exhibit A, April 11, 2024 e-mail from K. McDonnell. Relator admits that, in the flurry of activity around the scheduling of more than twenty depositions, the information in the email from Freedom regarding Mr. Panara's representation by Mr. Stumphauzer was not immediately incorporated in Relator's deposition planning at that time. (By way of illustration, approximately 50 emails were transmitted between the parties the week of April 8, 2024 in this matter.) At no point did Freedom's counsel follow up with Relator to update that Mr. Stumphauzer had not been retained by Mr. Panara, to identify any other counsel that it retained on behalf of Mr. Panara,¹ or to provide Mr. Panara's contact information to Relator in lieu of going through retained counsel.

On May 3, 2024, Relator sent a chart of the twenty depositions slated for May 6 – June 14, 2024 which included Mr. Panara's deposition for June 10, 2024. Exhibit B, May 3, 2024 e-mail from J. Estes. The email transmitting the chart made clear that Relator's counsel viewed Mr. Panara as a party witness and asked counsel to confirm those dates or to provide alternative dates. Freedom counsel did not respond to the email or correct Relator's representation of Mr. Panara as a party witness, nor state whether or not they knew if he was represented by Mr. Stumphauzer at that time. As the party who would have been paying for Mr. Stumphauzer's counsel, Freedom was

¹ Mr. Panara is now represented by counsel Shane Warner. Relator does not know if Freedom provided Mr. Warner as counsel to Mr. Panara, is paying for Mr. Warner's services, and if so, when those services were engaged.

uniquely positioned at that time to know whether or not such representation had been confirmed.

On June 5, 2024, during a break from the deposition of Dr. Sangeeta Hans, Relator conferred with Defendants' counsel for their agreement to adjust the start time of Mr. Panara's deposition on June 10 to accommodate timing of California-based counsel; Freedom's counsel confirmed their availability and inquired whether Relator's counsel had conferred with Mr. Panara's counsel on the timing. Freedom Defendants' motion is misleading in the implication of this discussion. Relator's counsel Jillian Estes responded that *she* did not then know who was representing Mr. Panara, not that Relator's counsel writ large did not. Rather, the members of Relator's team responsible for Mr. Panara's deposition had become aware of Mr. Stumphauzer's representation by that time, and having heard nothing from Freedom which would suggest that representation to be in question, were proceeding apace for the June 10 deposition based on the standard practice of confirming dates through emails.

Relator's counsel called Mr. Stumphauzer that same date to confirm that the change in start time was acceptable to the witness as well. Mr. Stumphauzer confirmed that Freedom counsel had provided him with the June 10, 2024 date for Mr. Panara's deposition and that he had that date reserved on his calendar for the deposition. However, Mr. Stumphauzer let Relator's counsel know then that he had not yet been able to get in contact with Mr. Panara. Even at that date, Mr. Stumphauzer stated that he would continue his efforts to contact Mr. Panara and, if he was successful, the Monday deposition could still proceed. By June 7, given the uncertainties and the need

to accommodate the schedules of the parties and the court reporter and videographer, Relator notified the parties that the deposition for June 10, 2024, would have to be taken off the calendar due to Mr. Panara's non-responsiveness. Exhibit C at 4, June 7, 2024 e-mail from J. Estes.

Relator communicated with Mr. Stumphauzer on June 11, 2024, at which time he informed Relator that he had still not been able to contact Mr. Panara and believed that it was "doubtful" that he would be representing him. Relator then promptly contacted Freedom to request contact information for Mr. Panara. *Id.* at 2-3, June 11 e-mail from A. Hartman. While Freedom initially failed to provide Mr. Panara's contact information, they did finally provide it in response to a follow-up inquiry on June 12, 2024. *Id.* at 1. In response to Freedom Defendants' assertion that they would object to any effort to serve Mr. Panara with a subpoena for deposition, Relator served Defendants with a Notice of Third Party Subpoena on June 14, 2024. Doc. 306-2 at 3. But Freedom Defendants did not respond to the Notice upon receipt nor the following day, nor indicate their intention to file a motion at that time which would have avoided process service fees and burden on the witness if a protective order had been entered at that time. Hearing no objection from Freedom, Relator engaged a process server to locate Mr. Panara and serve the deposition subpoena at his home on June 18, 2024. *Id.* at 2.

Mr. Panara did not respond to or communicate with Relator in response to receipt of the subpoena. Tellingly, communications from Freedom's counsel indicate that Mr. Panara or his counsel instead communicated directly to them either upon

receipt or very nearly thereafter. Mr. Panara's immediate outreach to Freedom's counsel raises questions as to when he had previously been in communication with them, whether he had been advised by Freedom's counsel to expect the subpoena, and the amount of communication around the June 10, 2024 deposition as to whether his avoidance of communication with Mr. Stumphauzer was a coordinated effort.

On June 21, 2024, Freedom conveyed to Relator that they had been in contact with either Mr. Panara or his counsel and indicated that Freedom intended to file a motion to quash. Exhibit D at 4, June 21, 2024 email from E. Hindman. Freedom proposed moving the set date of June 28, 2024, and upon request for clarification, confirmed "we would take the deposition off calendar and agree to reschedule a date that works for all parties if the Court denies our motion to quash." *Id.* at 2. Relator confirmed that her agreement to that proposal would depend on the witness's agreement to the same. *Id.* at 1.

On Monday, June 24, 2024, Relator conferred with Shane Warner, counsel for Mr. Panara, who confirmed that he was amenable to moving the date (subject to some scheduling conflicts in early August) and that he would accept service of an amended subpoena for Mr. Panara for a future date. See Exhibit E, June 24, 2024 e-mail from A. Hartman. Thus, Relator agreed to Freedom's proposal to move the deposition back.

Id.

III. Good Cause Exists to Allow the Panara Deposition to Take Place After the Close of Discovery

The narrowness of the issue before the Court is significant to the resolution of this motion: Relator does not seek to re-open fact discovery in its entirety, to take depositions of newly identified witnesses, or to seek production of additional documents related to the pending deposition. Rather, Freedom Defendants' motion is limited to the single deposition of Mital Panara – a witness identified for deposition well-before the close of fact discovery and whose deposition was only foreclosed by the non-responsiveness of the witness to the counsel provided to him by Freedom Defendants.

Defendants seek to quash that subpoena served on Mr. Panara on June 18, 2024 setting the deposition for June 28, 2024 (which has now been moved back to a date to be agreed-upon by counsel), and for issuance of a protective order solely because “the subpoena was served after the close of fact discovery, and with insufficient time for compliance.” Doc. 306 at 4. In seeking a protective order preventing the deposition, Defendants must show “good cause” exists for the court to issue such an order. Fed. R. Civ. P. 26(c)(1). To establish good cause, the moving party must make a “particular and specific demonstration of fact as distinguished from stereotyped and conclusory statements.” *Ekokotu v. Fed. Exp. Corp.*, 408 F. App'x 331, 336 (11th Cir. 2011) (internal quotation marks and citation omitted); *see also Auto-Owners Ins. Co. v. Se. Floating Docks, Inc.*, 231 F.R.D. 426, 430 (M.D. Fla. 2005). In addition to showing good cause, the moving party must show that, on balance, its interest in seeking the protective order

outweighs the interests of the opposing party. *McCarthy v. Barnett Bank of Polk Cty.*, 876 F.2d 89, 91 (11th Cir. 1989).

Here, Freedom Defendants have failed to meet their burden that they are entitled to a protective order. Relator does not dispute that the subpoena to Mr. Panara was served past the deadline for such service. However, the record is clear that Relator acted in good faith, consistent with the practices and communications consistently utilized in this case, and her actions are not neglectful, but certainly excusable.

First, Freedom Defendants' motion fails to address at all the standard operating practices which were utilized by all parties in this case given the very rapid pace of the depositions and the complexities of scheduling all witnesses in the narrow timeframe allotted. While Relator does not dispute that notices and subpoenas are prescribed by the Federal Rules, the parties in this case heavily relied on communication between counsel to schedule and confirm depositions, and often formalized the depositions at or very near to the depositions themselves. For example, on May 8, 2024, Relator served notices of four depositions which had been scheduled and confirmed by counsel for dates ranging from May 9, 2024 through June 3, 2024. On May 16, 2024, Relator served notices of four more depositions which had been scheduled and confirmed by counsel for dates ranging from May 24, 2024 through June 14, 2024. Although Defendants only elected to take three depositions in this case, they took advantage of similar flexibility. For example, Dr. George Mansour was subpoenaed for a June 12 deposition by Freedom on May 22, 2024, but Physician Partners did not issue their

own subpoena to Dr. Mansour until June 10, 2024.² None of these documents were met with objection or even consternation from any party over the dates of service; this was the usual practice used in this case. Accordingly, when Relator's counsel spoke with Mr. Stumphauzer on June 5 to set timing for the June 10 deposition about which he had been notified more than a month prior and was holding on his schedule, Relator would have issued the subpoena at that time. Given, however, the information learned in that call that Mr. Panara had been nonresponsive and the representation indicated by Freedom had never been formalized, Relator could not serve Mr. Panara through Mr. Stumphauzer at that time. Relator acted expeditiously to serve him once his contact information was received from Freedom on June 12, 2024.

Accordingly, Relator's conduct with respect to Mr. Panara's deposition was in good faith and consistent with the practices that had been implemented throughout the history of the case. However, even if the Court finds that not serving a subpoena to formalize the noticed deposition was neglectful, it is excusable and not cause for a protective order to prohibit the deposition under the standards of the Eleventh Circuit. In *Fisher Island Ltd. v. Fisher Island Invs., Inc.*, 518 F. App'x 663, 666 n.1 (11th Cir.

² Of note, Dr. Mansour's counsel notified Freedom that Dr. Mansour could not be available for seven consecutive hours on June 12 due to medical issues. By agreement with counsel, but not seeking permission for extension of the deadline from the Court, the parties agreed to hold any additional hours of Dr. Mansour's deposition on June 19, 2024. Freedom concluded its questioning of Dr. Mansour on June 12 such that the additional time on June 19 was not needed, but the willingness to schedule outside of the June 14 deadline for its witnesses is inconsistent with the positions taken herein.

2013), the 11th Circuit recognized four factors as relevant to the decision of whether a party's actions were excusable:

(1) the danger of prejudice to the [opponent]; (2) the length of the delay and its potential impact on judicial proceedings; (3) the reason for the delay, including whether it was within the reasonable control of the movant; and (4) whether the movant acted in good faith. The factors are non-exclusive, and the test requires an equitable determination taking account of all the relevant circumstances surrounding the party's omission.

Here, each of the factors counsels fully in Relator's favor. First, there is no danger of undue prejudice to Freedom; indeed, Freedom makes no argument that the deposition of Mr. Panara at this point would present an undue burden, nor could they make such an argument. Second, the delay is a matter of days as Relator moved as expeditiously as possible to individually serve Mr. Panara when she learned that Mr. Stumphauzer would not be representing him. That delay presents no impact on judicial proceedings because (1) all remaining deadlines are presently stayed pending the outcome of Defendants' dispositive motion so no other deadlines would be impacted at all, and (2) there are several other outstanding discovery motions and production issues to be resolved so this deposition would not be the cause of any time demands beyond those already in play. As to the third and fourth elements, a protective order is not merited because of the standard communications practices in this case in confluence with a lack of information from Freedom as to Mr. Panara's representation status. While Relator acknowledges her initial oversight of the information in Freedom's April 11 email that Mr. Panara was a former employee, that is not material to the present situation, particularly as Freedom failed to later clarify

Mr. Panara's representation status, even though Freedom (as the party paying for Mr. Stumphauzer's services) would have had complete awareness that the arrangement of which they informed Relator had not been formalized. *See, e.g., Gonzalez v. ETourandTravel, Inc.*, No. 6:13-cv-827-Orl-36TBS, 2014 U.S. Dist. LEXIS 40180, at *4 (M.D. Fla. Mar. 26, 2014) (finding good cause to reopen discovery, recognizing that "[t]he overall purpose of discovery under the Federal Rules is to require the disclosure of all relevant information so that the ultimate resolution of disputed issues in any civil action may be based on a full and accurate understanding of the true facts, and therefore embody a fair and just result.") (quoting *Oliver v. City of Orlando*, No. 6:06-cv-1671-Orl-31DAB, 2007 U.S. Dist. LEXIS 80552, at *4 (M.D. Fla. Oct. 31, 2007)).

Caselaw relied upon by Defendants is either actually supportive of Relator, or inapposite to the circumstances here. For example, where Freedom Defendants assert that Relator could have noticed Mr. Panara's deposition anytime during discovery, Relator had no basis to know of his import until the very end of discovery due to Freedom's failure to identify him as a relevant witness or custodian, and because Freedom didn't produce a complete set of documents related to him until the end of discovery. Similarly, in *Barnette v. Fed. Exp. Corp.*, No. 2:10-cv-471-FtM-36SPC, 2011 U.S. Dist. LEXIS 65179, at *5 (M.D. Fla. June 14, 2011), the court found good cause to reopen discovery given the late production of relevant information by defendants. Further, cases which deny relief based on an unexplained delay until after the close of discovery are inconsistent with the facts presented here wherein the timing of the case and the subsequent subpoena is clearly set out and there is no unexplained delay by

Relator. *See, e.g. Inman v. Richman Prop. Servs., Inc.*, No. 3:13-cv-941-J-32MCR, 2014 U.S. Dist. LEXIS 129415, at *10 (M.D.Fla. Sep. 16, 2014) (denying motion to compel where plaintiff had no reasonable explanation for waiting for the last day of discovery to resolve issue with defendant); *Arch Speciality Ins. Co. v. BP Inv. Partners, LLC*, No. 6:18-cv-1149-Orl-WWB-DCI, 2020 U.S. Dist. LEXIS 253751, at *3-5 (M.D. Fla. Feb. 26, 2020) (granting motion to quash where defendant offered “no legitimate reason” why it waited until nearly close of discovery to serve a facially overbroad subpoena for documents and compliance would require an extension of the discovery period).

Rather, courts in this district and around the country recognize good cause to allow important depositions where the party requesting the deposition showed diligence (even if the party “could have been more diligent”) and there would be little or no burden on the objecting party. *See Genetec, Inc. v. Pros, Inc.*, No. 1:20-cv-07959 (JLR), 2022 U.S. Dist. LEXIS 230768, at *3-5 (S.D.N.Y. Dec. 22, 2022) (reopening discovery for two depositions where the depositions were noticed and tentatively scheduled before the close of fact discovery, fact discovery closed less than three weeks ago, there would be no need to prolong the discovery period, and the parties had already prepared for the deposition). The good cause to allow such a deposition is even more clear where “there is no danger of prejudice to Defendants in extending the deadlines, [and] the danger of prejudice to Plaintiff in denying the motion would be severe.” *Andrews v. Marshall*, No. 2:16-cv-814-FtM-99MRM, 2019 U.S. Dist. LEXIS 236267, at *8 (M.D. Fla. Mar. 20, 2019) (also noting, “[f]inally, while the Court recognizes a certain lack of diligence on the part of the Plaintiff’s counsel, counsel did

schedule the subject depositions before the close of discovery, and defense counsel was willing to produce the witness for deposition despite the fact that the depositions were scheduled after the close of discovery. At bottom, the Court finds that the potential prejudice to Plaintiff warrants granting the relief requested.”) Simply, where there would be no undue prejudice to the other parties, there would be no impact on the drafting of dispositive motions, the deposition would not delay any other proceedings, and the requesting party did not act in bad faith, “justice is best served by permitting the deposition to take place.” *Hgr Constr. v. Hanover Ins. Co.*, No. 6:18-cv-1406-Orl-40LRH, 2020 U.S. Dist. LEXIS 260312, at *14-15 (M.D. Fla. July 13, 2020).

IV. The Subpoena Should Not Be Quashed Based on The Date Selected.

In addition to their motion for protective order, Defendants seek to quash the subpoena for failure to provide adequate notice between the date the subpoena was served and the scheduled date of the deposition. Mr. Panara filed a joinder raising that objection as well. Doc. 309. First, Relator notes she did seek to pick a mutually agreeable date with Freedom, and Freedom elected not to cooperate in selecting that date. Exhibit C at 2, June 12, 2024 e-mail from K. McDonnell. Relator then set the tentative deposition date for June 28, 2024, fourteen days from the date of the Notice of Third Party Subpoena, which was served on Defendants on June 14, 2024. Given that Mr. Panara had been non-responsive to the communications from Mr. Stumphauzer and Relator did not have information as to whether Mr. Panara was represented by any other counsel at that time, Relator could not negotiate a date with Mr. Panara prior to sending the process server to attempt delivery of the noticed

subpoena. Thus, rather than send a subpoena with a different date than the date which was in the notice, Relator elected to serve the subpoena with the date listed and, as has been customary in this case, was (and is) willing to amend the date to accommodate the schedule of counsel and the witness. *See* Ex. A at 4, April 3 e-mail from K. McDonnell noting, “we had to submit a Touhy request as a starting point to scheduling her deposition, which required a subpoena and therefore a tentative date. We did not expect the noticed date to go forward and, as you know, it did not go forward on that date. This is common practice.”

In conversation with Mr. Warner on June 24, 2024, with respect to moving the date off of June 28, 2024, at Freedom’s request, Mr. Panara’s counsel did not raise any concerns about the proximity of the scheduled date and did not indicate Mr. Panara’s unavailability for the scheduled date. Despite the Local Rules compelling meet-and-confer before filing a motion to quash, Mr. Warner did not indicate any intention to move to quash (or to join Freedom’s motion to quash) based on the scheduled date at that time nor at any time since then before filing his Joinder motion. *See* Doc. 309, failing to include notice of conference required by Local Rule 3.01(g).

Critically, however, any issues with the noticed date have been obviated by Freedom’s request to move the scheduled date of June 28, 2024 off the calendar and all parties’ agreement to reschedule the date if the Court denies Freedom’s motion. All parties agreed to allow the deposition to be rescheduled at the direction of the Court – and Mr. Warner agreed to accept service of a rescheduled deposition subpoena – so a date can be mutually selected fourteen or more days out to alleviate any notice

concerns. See Ex. E, confirming conversation between Relator's counsel and Mr. Panara's counsel as to rescheduling deposition to later date, and confirmation of receipt by Freedom's counsel.

V. Conclusion

The deposition of Mital Panara has been long-known, long-anticipated, and long-agreed-upon by all parties, and Mr. Panara himself has raised no objections other than timing of the subpoena to providing his testimony. Freedom Defendants have sought to capitalize on a procedural step not strictly adhered to in this litigation to now gain a litigation advantage by foreclosing the testimony of a key witness, but have not identified any burden which would arise from fact discovery being completed as planned. For the reasons set forth herein, Relator respectfully requests that Freedom Defendants' motion to quash and motion for protective order be denied in its entirety, and that the parties be ordered to reset the deposition at a time mutually available to counsel and the witness more than 14 days but no more than 45 days from the date the Court enters its order.

Respectfully submitted,

/s/ Jillian L. Estes
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Response in Opposition was served via electronic mail on counsel for all parties of record on this 26th day of June, 2024.

/s/ Jillian L. Estes

Jillian L. Estes

EXHIBIT A

Jillian Estes

From: McDonnell, Kelly <kmcdonnell@omm.com>
Sent: Thursday, April 11, 2024 3:30 PM
To: Jillian Estes; Swanson, Joe; Mehta, Jason; Valiente, Lauren L.; Matthews, Mike; Gerencir, Samantha M.; Benjamin, Olivia; Santella, Amanda M.; Drake, Scott; Nagle, Catherine; Kohli, Rahul; Hindman, Evan; Tschepik, Nathan
Cc: Chandra Napora; Jonathan Lischak; Traci Ann Smith; Rabin, Adam; Havan Clark ; Ken Nolan; Marcella Auerbach; e-filing@rkjlawgroup.com; Jennifer Verkamp
Subject: RE: [U.S. ex rel. Zafirov v. Physician Partners, et al.] Notice of Intent to Depose; Request for Availability

-- External Email --

Hi Jill,

We learned that Mital Panara is no longer with Freedom. We are working to get contact information for him that we can provide to Ryan Stumphauzer.

Thanks,
Kelly

Kelly McDonnell
O: +1-202-383-5328
kmcdonnell@omm.com

From: McDonnell, Kelly <kmcdonnell@omm.com>
Sent: Wednesday, April 10, 2024 4:50 PM
To: Jillian Estes <Jillian.Estes@morganverkamp.com>; Swanson, Joe <joe.swanson@foley.com>; Mehta, Jason <jmehta@foley.com>; Valiente, Lauren L. <LValiente@foley.com>; Matthews, Mike <MMatthews@foley.com>; Gerencir, Samantha M. <samantha.gerencir@foley.com>; Benjamin, Olivia <obenjamin@foley.com>; Santella, Amanda M. <asantella@omm.com>; Drake, Scott <sdrake@omm.com>; Nagle, Catherine <cnagle@omm.com>; Kohli, Rahul <rkohli@omm.com>; Hindman, Evan <ehindman@omm.com>; Tschepik, Nathan <ntschepik@omm.com>
Cc: Chandra Napora <Chandra.Napora@morganverkamp.com>; Jonathan Lischak <Jonathan.Lischak@morganverkamp.com>; Traci Ann Smith <tsmith@morganverkamp.com>; Rabin, Adam <arabin@rkjlawgroup.com>; Havan Clark <hclark@rkjlawgroup.com>; Ken Nolan <ken@whistleblowerfirm.com>; Marcella Auerbach <marcella@whistleblowerfirm.com>; e-filing@rkjlawgroup.com; Jennifer Verkamp <Jennifer.Verkamp@morganverkamp.com>
Subject: RE: [U.S. ex rel. Zafirov v. Physician Partners, et al.] Notice of Intent to Depose; Request for Availability

Hi Jill,

As noted in my April 4, 2024 email to you, Freedom Defendants provide the attached chart reflecting the topics about which we are able to educate our corporate representatives. The chart provides your revised topics, our proposed topic in response to each, and our proposed designee for each (to the extent one is required). We will be prepared to discuss deposition scheduling for the corporate representatives on Friday's call.

Freedom Defendants will follow up with formal responses and objections consistent with these proposed topics shortly before the corporate representatives' depositions.

Regards,
Kelly

Kelly McDonnell
O: +1-202-383-5328
kmcdonnell@omm.com

From: McDonnell, Kelly <kmcdonnell@omm.com>
Sent: Thursday, April 4, 2024 2:03 PM
To: Jillian Estes <Jillian.Estes@morganverkamp.com>; Swanson, Joe <joe.swanson@foley.com>; Mehta, Jason <jmehta@foley.com>; Valiente, Lauren L. <LValiente@foley.com>; Matthews, Mike <MMatthews@foley.com>; Gerencir, Samantha M. <samantha.gerencir@foley.com>; Benjamin, Olivia <obenjamin@foley.com>; Santella, Amanda M. <asantella@omm.com>; Drake, Scott <sdrake@omm.com>; Nagle, Catherine <cnagle@omm.com>; Kohli, Rahul <rkohli@omm.com>; Hindman, Evan <ehindman@omm.com>; Tschepik, Nathan <ntschepik@omm.com>
Cc: Chandra Napora <Chandra.Napora@morganverkamp.com>; Jonathan Lischak <Jonathan.Lischak@morganverkamp.com>; Traci Ann Smith <tsmith@morganverkamp.com>; Rabin, Adam <arabin@rkjlawgroup.com>; Havan Clark <hclark@rkjlawgroup.com>; Ken Nolan <ken@whistleblowerfirm.com>; Marcella Auerbach <marcella@whistleblowerfirm.com>; e-filing@rkjlawgroup.com; Jennifer Verkamp <Jennifer.Verkamp@morganverkamp.com>
Subject: RE: [U.S. ex rel. Zafirov v. Physician Partners, et al.] Notice of Intent to Depose; Request for Availability

Hi Jill,

Thank you for confirming that Dr. Mihale's deposition will be scheduled for the week of April 22. We will confer with our client regarding dates for English, Kortsch, and Panara and get back to you as soon as we can. With regard to the former-Freedom witnesses you intend to depose, we look forward to learning what dates are available for those witnesses and conferring with this group on scheduling those depositions.

With regard to the Rule 30(b)(6) topics and associated corporate representatives, we aim to get our proposed topics to you by Wednesday, April 10. We are shortcutting our process to accommodate your request for accelerated scheduling, so we will follow up with formal responses and objections after Wednesday. We will be prepared to discuss Rule 30(b)(6) deposition dates when we have our broader scheduling discussion on Friday, April 12. We are working hard to get the topics to you as soon as possible (it requires a fair amount of coordination on our end), and are aligned on the goal to move this forward expeditiously.

Thanks again,
Kelly

Kelly McDonnell
O: +1-202-383-5328
kmcdonnell@omm.com

From: Jillian Estes <Jillian.Estes@morganverkamp.com>
Sent: Wednesday, April 3, 2024 9:59 PM
To: McDonnell, Kelly <kmcdonnell@omm.com>; Swanson, Joe <joe.swanson@foley.com>; Mehta, Jason <jmehta@foley.com>; Valiente, Lauren L. <LValiente@foley.com>; Matthews, Mike <MMatthews@foley.com>; Gerencir, Samantha M. <samantha.gerencir@foley.com>; Benjamin, Olivia <obenjamin@foley.com>; Santella, Amanda M. <asantella@omm.com>; Drake, Scott <sdrake@omm.com>; Nagle, Catherine <cnagle@omm.com>; Kohli, Rahul <rkohli@omm.com>; Hindman, Evan <ehindman@omm.com>; Tschepik, Nathan <ntschepik@omm.com>
Cc: Chandra Napora <Chandra.Napora@morganverkamp.com>; Jonathan Lischak <Jonathan.Lischak@morganverkamp.com>; Traci Ann Smith <tsmith@morganverkamp.com>; Rabin, Adam <arabin@rkjlawgroup.com>; Havan Clark <hclark@rkjlawgroup.com>; Ken Nolan <ken@whistleblowerfirm.com>; Marcella Auerbach <marcella@whistleblowerfirm.com>; e-filing@rkjlawgroup.com; Jennifer Verkamp <Jennifer.Verkamp@morganverkamp.com>
Subject: RE: [U.S. ex rel. Zafirov v. Physician Partners, et al.] Notice of Intent to Depose; Request for Availability

[EXTERNAL MESSAGE]

Kelly,

In follow-up to our conversation today, I'm confirming that Relator has agreed to seek dates the week of April 22, 2024 for Dr. Mihale's deposition. However, I reiterate the concerns raised by phone and in previous emails that not scheduling any Freedom-related witnesses for the first three weeks of April and any of Freedom's 30(b)(6) witnesses until the topics are fully resolved will likely necessitate taking depositions into June. As I reiterated, while we are certainly willing (and expecting) to have a very busy deposition schedule, we cannot be expected to take daily depositions the last two weeks of May because witnesses were not scheduled during negotiations of 30(b)(6) topics.

I appreciate your assurance that that is not Freedom's intention and that you believe the depositions can be scheduled before the current deadline. To effectuate that, I asked that Freedom's position on the 30(b)(6) topics be provided no later than Friday morning. Please let us know your availability for a phone call on Friday afternoon or Monday morning to discuss what you've sent. Relator is available from 1:00 pm EST – 5:00 pm EST on Friday, or 9:00-10:00 am EST and 11:30-1:30 pm EST on Monday. Please also begin conferring with the witnesses that you've identified for your proposed topics so that we can reach agreement on dates no later than Wednesday, April 10.

Also, you requested a list of all of the Freedom witnesses which Relator intends to depose. As I'm sure you know, the list of deponents will develop as other depositions are taken, so this is not a comprehensive list. But for purposes of scheduling, please provide dates for Cathy English, Diane Kortsch, and Mital Panara. We will also have or will be seeking dates from Ryan Stumphauzer for Dennis Mihale (the week of April 22), Karen Kelly, Nancy Gerreau, and Marcos Vazquez.

For all counsel, I propose that we set a scheduling call on Friday, April 12, to discuss the remaining schedule. Please let us know your availability between 11:00 am – 3:00 pm EST.

Thank you,

Jill

Jillian L. Estes | 513-448-1251 | jillian.estes@morganverkamp.com

MORGAN VERKAMP, LLC

From: Jillian Estes

Sent: Wednesday, April 3, 2024 12:41 PM

To: 'McDonnell, Kelly' <kmcdonnell@omm.com>; Swanson, Joe <joe.swanson@foley.com>; Mehta, Jason <jmehta@foley.com>; Valiente, Lauren L. <LValiente@foley.com>; Matthews, Mike <MMatthews@foley.com>; Gerencir, Samantha M. <samantha.gerencir@foley.com>; Benjamin, Olivia <obenjamin@foley.com>; Santella, Amanda M. <asantella@omm.com>; Drake, Scott <sdrake@omm.com>; Nagle, Catherine <cnagle@omm.com>; Kohli, Rahul <rkohli@omm.com>; Hindman, Evan <ehindman@omm.com>; Tschepik, Nathan <ntschepek@omm.com>

Cc: Chandra Napora <Chandra.Napora@morganverkamp.com>; Jonathan Lischak <Jonathan.Lischak@morganverkamp.com>; Traci Ann Smith <tsmith@morganverkamp.com>; Rabin, Adam <arabin@rkjlawgroup.com>; Havan Clark <hclark@rkjlawgroup.com>; Ken Nolan <ken@whistleblowerfirm.com>; Marcella Auerbach <marcella@whistleblowerfirm.com>; e-filing@rkjlawgroup.com; Jennifer Verkamp <Jennifer.Verkamp@morganverkamp.com>

Subject: RE: [U.S. ex rel. Zafirov v. Physician Partners, et al.] Notice of Intent to Depose; Request for Availability

Kelly,

Relator has been reasonable, and has offered to move the date within the timeframe that all parties agreed to. You have offered no response as to why this deposition of a third party is any different than a third-party primarily associated with Freedom, other than to say it is not, nor how it is reasonable that not a single member of Freedom's counsel is available for the first three weeks of the month.

Please circulate a call-in for 4:00 pm EST.

Jill

Jillian L. Estes | 513-448-1251 | jillian.estes@morganverkamp.com
MORGAN VERKAMP, LLC

From: McDonnell, Kelly <kmcdonnell@omm.com>

Sent: Wednesday, April 3, 2024 12:17 PM

To: Jillian Estes <Jillian.Estes@morganverkamp.com>; Swanson, Joe <joe.swanson@foley.com>; Mehta, Jason <jmehta@foley.com>; Valiente, Lauren L. <LValiente@foley.com>; Matthews, Mike <MMatthews@foley.com>; Gerencir, Samantha M. <samantha.gerencir@foley.com>; Benjamin, Olivia <obenjamin@foley.com>; Santella, Amanda M. <asantella@omm.com>; Drake, Scott <sdrake@omm.com>; Nagle, Catherine <cnagle@omm.com>; Kohli, Rahul <rkohli@omm.com>; Hindman, Evan <ehindman@omm.com>; Tschepik, Nathan <ntschepik@omm.com>

Cc: Chandra Napora <Chandra.Napora@morganverkamp.com>; Jonathan Lischak <Jonathan.Lischak@morganverkamp.com>; Traci Ann Smith <tsmith@morganverkamp.com>; Rabin, Adam <arabin@rkjlawgroup.com>; Havan Clark <hclark@rkjlawgroup.com>; Ken Nolan <ken@whistleblowerfirm.com>; Marcella Auerbach <marcella@whistleblowerfirm.com>; e-filing@rkjlawgroup.com; Jennifer Verkamp <Jennifer.Verkamp@morganverkamp.com>

Subject: RE: [U.S. ex rel. Zafirov v. Physician Partners, et al.] Notice of Intent to Depose; Request for Availability

-- External Email --

Jill,

We're confused by your reference to us refusing to produce any Freedom witnesses before April 22 because Relator has not requested depositions of any Freedom related witnesses other than Dr. Mihale and a Rule 30(b)(6) designee, which as you know is still subject to our negotiation over the topics. We are glad to schedule any Freedom witness depositions cooperatively with adequate notice. See Fed. R. Civ. P. 30(b)(1) (requiring a "party who wants to depose a person by oral questions must give reasonable written notice to every other party.") Our email was specifically limited to Dr. Mihale. We were not parties to your conversation with Dr. Mihale's counsel but assume his provision of dates was limited to the witness's availability and he was not representing that any other party had agreed to that date. Your characterization that Dr. Mihale's deposition is no different than "a deposition of a primarily-PPC witness" is inaccurate. We renew our request that you work collaboratively to schedule Dr. Mihale's deposition. If Relator will not be reasonable about cooperatively scheduling this deposition, we will separately advise Dr. Mihale's counsel about our availability.

With respect to Agent Garrido, we had to submit a *Touhy* request as a starting point to scheduling her deposition, which required a subpoena and therefore a tentative date. We did not expect the noticed date to go forward and, as you know, it did not go forward on that date. This is common practice. It is unfortunate if Relator's counsel chose to make travel arrangements without checking with anyone else to see whether the deposition was going forward. We will coordinate with HHS-OIG—and the parties—when scheduling Agent Garrido's deposition.

At this point, it does not seem productive to exchange further emails on this subject. We are available for a call today at 4 pm ET.

Kelly

Kelly McDonnell
O: +1-202-383-5328
kmcdonnell@omm.com

From: Jillian Estes <Jillian.Estes@morganverkamp.com>

Sent: Wednesday, April 3, 2024 10:04 AM

To: McDonnell, Kelly <kmcdonnell@omm.com>; Swanson, Joe <joe.swanson@foley.com>; Mehta, Jason <jmehta@foley.com>; Valiente, Lauren L. <LValiente@foley.com>; Matthews, Mike <MMatthews@foley.com>; Gerencir, Samantha M. <samantha.gerencir@foley.com>; Benjamin, Olivia <obenjamin@foley.com>; Santella, Amanda M. <asantella@omm.com>; Drake, Scott <sdrake@omm.com>; Nagle, Catherine <cnagle@omm.com>; Kohli, Rahul <rkohli@omm.com>; Hindman, Evan <ehindman@omm.com>; Tschepik, Nathan <ntschepik@omm.com>

Cc: Chandra Napora <Chandra.Napora@morganverkamp.com>; Jonathan Lischak <Jonathan.Lischak@morganverkamp.com>; Traci Ann Smith <tsmith@morganverkamp.com>; Rabin, Adam <arabin@rkjlawgroup.com>; Havan Clark <hclark@rkjlawgroup.com>; Ken Nolan <ken@whistleblowerfirm.com>; Marcella Auerbach <marcella@whistleblowerfirm.com>; e-filing@rkjlawgroup.com; Jennifer Verkamp <Jennifer.Verkamp@morganverkamp.com>

Subject: RE: [U.S. ex rel. Zafirov v. Physician Partners, et al.] Notice of Intent to Depose; Request for Availability

[EXTERNAL MESSAGE]

Kelly,

With respect to scheduling third-party depositions, Relator followed the process established by Freedom and Optimum for the depositions of third-parties: Freedom Defendants set and noticed the deposition for Raquel Garrido for Feb. 2, 2024, without any consultation with Relator, and notified the parties of the selected date after the subpoena was served, though such notice made no reference to flexibility to accommodate schedules. In fact, Relator's counsel re-arranged travel specifically to be available in Tampa on the date predetermined by Freedom. Given that that was the process Freedom set for scheduling a third-party deposition, Relator followed suit for scheduling this deposition with Dr. Mihale's counsel. If Freedom/Optimum would now like to walk back the process that they created and would like all parties to clear dates ahead of time, we'd be happy to reach that agreement going forward. But that is not how it has been done up when it suited Freedom's purposes, and we cannot accommodate changing that now to lose more than half of April's availability for the already-scheduled depositions.

With respect to Dr. Mihale, we have already communicated with his counsel to find dates that work, and we intend to go forward on April 11, 2024. Dr. Mihale is not Freedom's witness, he is not represented by Freedom counsel so will not be prepared by Freedom's counsel, and Freedom's counsel is not defending him during the deposition. In fact, Relator expects it unlikely that Freedom would question the witness during the deposition (though, Freedom is, of course, is able to use their allotted time to do so). Thus, although Dr. Mihale is "associated with Freedom Defendants," there is no difference between counsel being available to attend this deposition versus a deposition of a primarily-PPC witness, and you acknowledge availability to do the latter. If you maintain the assertion that not a single member of Freedom's nearly-dozen-lawyer-team is available on April 11 to attend a remote deposition, I can confirm if Dr. Mihale is still available on April 9, 2024. Please let me know by 1:00 pm EST today and we can work to move it to that date. If, however, you maintain the position that no lawyer on Freedom is available to attend any deposition of any Freedom-related witness on any date before April 23, 2024 (given that oral arguments are scheduled on April 22), then please let me know your availability for a call between 2:30 pm and 5:30 pm EST today to meet-and-confer on the need to move the deposition deadline for Freedom's witnesses back at least the same 3 weeks that you have foreclosed in April.

Thank you,

Jill

Jillian L. Estes | 513-448-1251 | jillian.estes@morganverkamp.com

MORGAN VERKAMP, LLC

From: McDonnell, Kelly <kmcdonnell@omm.com>

Sent: Tuesday, April 2, 2024 6:51 PM

To: Jillian Estes <Jillian.Estes@morganverkamp.com>; Swanson, Joe <joe.swanson@foley.com>; Mehta, Jason <jmehta@foley.com>; Valiente, Lauren L. <LValiente@foley.com>; Matthews, Mike <MMatthews@foley.com>; Gerencir, Samantha M. <samantha.gerencir@foley.com>; Benjamin, Olivia <obenjamin@foley.com>; Santella, Amanda M. <asantella@omm.com>; Drake, Scott <sdrake@omm.com>; Nagle, Catherine <cnagle@omm.com>; Kohli, Rahul <rkohli@omm.com>; Hindman, Evan <ehindman@omm.com>; Tschepik, Nathan <ntschepik@omm.com>

Cc: Chandra Napora <Chandra.Napora@morganverkamp.com>; Jonathan Lischak <Jonathan.Lischak@morganverkamp.com>; Traci Ann Smith <tsmith@morganverkamp.com>; Rabin, Adam <arabin@rkjlawgroup.com>; Havan Clark <hclark@rkjlawgroup.com>; Ken Nolan <ken@whistleblowerfirm.com>; Marcella Auerbach <marcella@whistleblowerfirm.com>; e-filing@rkjlawgroup.com; Jennifer Verkamp <Jennifer.Verkamp@morganverkamp.com>

Subject: RE: [U.S. ex rel. Zafirov v. Physician Partners, et al.] Notice of Intent to Depose; Request for Availability

-- External Email --

Hi Jill,

It is not correct that counsel for Freedom Defendants agreed to hold open every day in April and May for depositions without prior notice or discussion. Also, it is not our position that no depositions can go forward before April 22. As you have seen, we have not weighed in on the scheduling of the PPC witnesses' depositions. Although Freedom Defendants will certainly need to have counsel at each deposition, we are attempting to be as flexible as possible for those depositions since they are not our witnesses, and we will do our best to have someone on our team available to cover those depositions if you would like to schedule them for early April for dates agreed to by Relator and PPC.

It is immensely reasonable, however, to expect that dates for witnesses associated with Freedom Defendants would be discussed and coordinated with us in advance of scheduling those depositions. Indeed, the Middle District Discovery Guide provides that "An attorney is expected to accommodate the schedules of opposing counsel. In doing so, the attorney should normally pre-arrange a deposition with opposing counsel before serving the notice. If this is not possible, counsel may unilaterally notice the deposition while at the same time indicating a willingness to be reasonable about any necessary rescheduling." (Middle District Discovery Guide at 6.). As reflected in our initial disclosures, Dr. Mihale was a medical consultant for Freedom Defendants while he served as an independent contractor with Chelsea Management Group. The attorneys on our team that would need to be present for this deposition are not available on April 11. Please provide alternative dates for Dr. Mihale's deposition during the week of April 22. To be clear, this is the only deposition for which we are requesting Relator find an alternative date at this time, though we of course will also need to be consulted in advance to find mutually agreeable dates for any other current or former Freedom Defendant employees.

As I noted in my email to Chandra on March 28, we met with Relator's counsel on March 5 to confer on the Rule 30(b)(6) topics and then, after following up repeatedly, did not receive revised topics until March 25. But, those topics were almost identical to the version provided earlier and did not meaningfully address Freedom Defendants' positions in the meet-and-confer three weeks earlier. Now, we are preparing responses and objections to try to move the ball forward and be in a position to have a meaningful and productive discussion about the scope of topics for which we are able to provide corporate representatives, at which point we will identify available dates for Freedom Defendants' corporate designee(s) on those topics.

Thanks,
Kelly

Kelly McDonnell
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kmcdonnell@omm.com

From: Jillian Estes <Jillian.Estes@morganverkamp.com>

Sent: Tuesday, April 2, 2024 4:45 PM

To: McDonnell, Kelly <kmcdonnell@omm.com>; Swanson, Joe <joe.swanson@foley.com>; Mehta, Jason <jmehta@foley.com>; Valiente, Lauren L. <LValiente@foley.com>; Matthews, Mike <MMatthews@foley.com>; Gerencir, Samantha M. <samantha.gerencir@foley.com>; Benjamin, Olivia <obenjamin@foley.com>; Santella, Amanda M. <asantella@omm.com>; Drake, Scott <sdrake@omm.com>; Nagle, Catherine <cnagle@omm.com>; Kohli, Rahul <rkohli@omm.com>; Hindman, Evan <ehindman@omm.com>; Tschepik, Nathan <ntschepik@omm.com>

Cc: Chandra Napora <Chandra.Napora@morganverkamp.com>; Jonathan Lischak <Jonathan.Lischak@morganverkamp.com>; Traci Ann Smith <tsmith@morganverkamp.com>; Rabin, Adam <arabin@rkjlawgroup.com>; Havan Clark <hclark@rkjlawgroup.com>; Ken Nolan <ken@whistleblowerfirm.com>; Marcella Auerbach <marcella@whistleblowerfirm.com>; e-filing@rkjlawgroup.com; Jennifer Verkamp <Jennifer.Verkamp@morganverkamp.com>

Subject: RE: [U.S. ex rel. Zafirov v. Physician Partners, et al.] Notice of Intent to Depose; Request for Availability

[EXTERNAL MESSAGE]

Kelly,

Counsel in this case collectively agreed to have the entirety of April and May available for depositions in this case when we agreed to a close of discovery at the end of May. While we may be agreeable to reasonable accommodation, we cannot wait until the week of April 22 to take any depositions and still adhere to the current deadline. If you are representing that Freedom's counsel is collectively unavailable for nearly the entire month of April, then we need to push the agreed-upon date back an equivalent month. We are open to that discussion but need to have it in the next day or two. Otherwise, Relator must proceed apace with depositions throughout this month and will send the subpoena to Dr. Mihale's counsel as set. There are several other witnesses for which dates have been requested and will be set in the coming weeks as well.

Similarly, the Freedom 30(b)(6) topics are near to final and witnesses need to be scheduled. Chandra already explained that Freedom is not at liberty to draft their own topics and then agree only to set forth witnesses for those topics; that is not how the Rules work and will not work in this case. If there are minor changes to be made, those will not impact the topics writ large. If your position is that Freedom cannot identify a single responsive deponent to a single topic that Relator has set forth, and that no Freedom witness will be available before April 22 irrespective of the topics, please make that clear now. But consistent with the agreement to take depositions throughout April and May, deponents need to be identified and set forthwith.

If we need a call regarding Freedom's lack of availability through April, please provide times for a call tonight or tomorrow.

Thank you,

Jill

Jillian L. Estes | 513-448-1251 | jillian.estes@morganverkamp.com
MORGAN VERKAMP, LLC

From: McDonnell, Kelly <kmcdonnell@omm.com>
Sent: Tuesday, April 2, 2024 4:24 PM
To: Jillian Estes <Jillian.Estes@morganverkamp.com>; Swanson, Joe <joe.swanson@foley.com>; Mehta, Jason <jmehta@foley.com>; Valiente, Lauren L. <LValiente@foley.com>; Matthews, Mike <MMatthews@foley.com>; Gerencir, Samantha M. <samantha.gerencir@foley.com>; Benjamin, Olivia <obenjamin@foley.com>; Santella, Amanda M. <asantella@omm.com>; Drake, Scott <sdrake@omm.com>; Nagle, Catherine <cnagle@omm.com>; Kohli, Rahul <rkohli@omm.com>; Hindman, Evan <ehindman@omm.com>; Tschepik, Nathan <ntschespik@omm.com>
Cc: Chandra Napora <Chandra.Napora@morganverkamp.com>; Jonathan Lischak <Jonathan.Lischak@morganverkamp.com>; Traci Ann Smith <tsmith@morganverkamp.com>; Rabin, Adam <arabin@rkjlawgroup.com>; Havan Clark <hclark@rkjlawgroup.com>; Ken Nolan <ken@whistleblowerfirm.com>; Marcella Auerbach <marcella@whistleblowerfirm.com>
Subject: RE: [U.S. ex rel. Zafirov v. Physician Partners, et al.] Notice of Intent to Depose; Request for Availability

-- External Email --

Hi Jill,

With regard to Dr. Mihale's deposition, counsel for Freedom Defendants are not available on April 11, and are tied up until the week of April 22. Your email was the first we'd heard that Dr. Mihale's deposition was being scheduled. Please coordinate with us on dates moving forward especially, as here, where the witness has a connection to Freedom Defendants.

For the May 7 deposition of Ms. Johnson, we are available on that date and can offer the use of our Dallas office for an in-person deposition.

We are not able to identify witnesses for the Rule 30(b)(6) topics as to Freedom Defendants until they are closer to finalized. We are working on our response to Relator's revisions and will get that to you as soon as we can.

Thanks,
Kelly

Kelly McDonnell
O: +1-202-383-5328
kmcdonnell@omm.com

From: Jillian Estes <Jillian.Estes@morganverkamp.com>
Sent: Tuesday, April 2, 2024 11:36 AM
To: Swanson, Joe <joe.swanson@foley.com>; Mehta, Jason <jmehta@foley.com>; Valiente, Lauren L. <LValiente@foley.com>; Matthews, Mike <MMatthews@foley.com>; Gerencir, Samantha M. <samantha.gerencir@foley.com>; Benjamin, Olivia <obenjamin@foley.com>; Santella, Amanda M. <asantella@omm.com>; Drake, Scott <sdrake@omm.com>; Nagle, Catherine <cnagle@omm.com>; McDonnell, Kelly <kmcdonnell@omm.com>; Kohli, Rahul <rkohli@omm.com>; Hindman, Evan <ehindman@omm.com>; Tschepik, Nathan <ntschespik@omm.com>
Cc: Chandra Napora <Chandra.Napora@morganverkamp.com>; Jonathan Lischak <Jonathan.Lischak@morganverkamp.com>; Traci Ann Smith <tsmith@morganverkamp.com>; Rabin, Adam <arabin@rkjlawgroup.com>; Havan Clark <hclark@rkjlawgroup.com>; Ken Nolan <ken@whistleblowerfirm.com>; Marcella Auerbach <marcella@whistleblowerfirm.com>
Subject: RE: [U.S. ex rel. Zafirov v. Physician Partners, et al.] Notice of Intent to Depose; Request for Availability

[EXTERNAL MESSAGE]

Good morning, all,

Hope all is well. I have Ms. Gallman confirmed for 4/16 in Foley's office in Tampa. I conferred with Ms. Johnson's counsel and we have selected 5/7 as a date that is available for her, and will confirm whether we'll be doing that in-person in Garland/Dallas, TX or remotely. Following up for dates for Mr. Patel, Mr. Dastagir and Mr. Mekala - Joe, I understand you're spearheading these depositions, so if it would be easier to lock in dates on the phone with our calendars, please give me a call. I'm generally available today other than 12:30-1:00 pm EST. We need to lock those in no later than tomorrow, or alternatively we can just set dates and move them if the witness is not available.

Dr. Mihale's deposition will be on 4/11/24 and I believe will be remote – that will be confirmed today.

We also need to get dates on the books for both sets of 30(b)(6) witnesses. I know Freedom is proposing additional modifications to their topics, and Provider Defendants are checking on a few things to tweak to our last conversation. But, the general tenor of the topics are set, even if not the exact language, so the witnesses can be identified and scheduled while we sort the last parts out. Please provide dates for those the weeks of 4/22 (save for 4/22 which is, of course, oral arguments here in Tampa) and 4/29 for each anticipated 30(b)(6) witness.

Thank you,

Jill

Jillian L. Estes | 513-448-1251 | jillian.estes@morganverkamp.com
MORGAN VERKAMP, LLC

From: Swanson, Joe <joe.swanson@foley.com>

Sent: Thursday, March 28, 2024 6:55 PM

To: Jillian Estes <Jillian.Estes@morganverkamp.com>; Mehta, Jason <jmehta@foley.com>; Valiente, Lauren L. <LValiente@foley.com>; Matthews, Mike <MMatthews@foley.com>; Gerencir, Samantha M. <samantha.gerencir@foley.com>; Benjamin, Olivia <obenjamin@foley.com>; Santella, Amanda M. <asantella@omm.com>; Drake, Scott (<sdrake@omm.com> <sdrake@omm.com>); Nagle, Catherine <cnagle@omm.com>; McDonnell, Kelly <kmcdonnell@omm.com>; Kohli, Rahul <rkohli@omm.com>; Hindman, Evan <ehindman@omm.com>; Tschepik, Nathan <ntschepik@omm.com>

Cc: Chandra Napora <Chandra.Napora@morganverkamp.com>; Jonathan Lischak <Jonathan.Lischak@morganverkamp.com>; Traci Ann Smith <tsmith@morganverkamp.com>; Rabin, Adam <arabin@rkjlawgroup.com>; Havan Clark <hclark@rkjlawgroup.com>; Ken Nolan <ken@whistleblowerfirm.com>; Marcella Auerbach <marcella@whistleblowerfirm.com>

Subject: RE: [U.S. ex rel. Zafirov v. Physician Partners, et al.] Notice of Intent to Depose; Request for Availability

-- External Email --

Jill,

Thanks for your email. I can provide you with the following information:

- Emily Gallman – available for deposition on April 11, April 15, April 16, or April 17
- Sajitha Johnson – no longer employed by the company; represented by Jack Clabby at Carlton Fields; please contact Jack at 813-229-4229 or jclabby@carltonfields.com to make arrangements for this deposition
- Rajiv Patel – I am working to confirm availability; being deposed in the Mansour matter on April 12, so we will need to schedule around that date
- Syed Dastagir – I will provide additional information early next week
- Ratnakar Mekala – I will provide additional information early next week

Thanks,
Joe

Joe Swanson
Partner

Foley & Lardner LLP
100 N Tampa St, Suite 2700, Tampa, FL 33602-5810
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From: Jillian Estes <Jillian.Estes@morganverkamp.com>
Sent: Thursday, March 28, 2024 11:24 AM
To: Mehta, Jason <jmehta@foley.com>; Valiente, Lauren L. <LValiente@foley.com>; Swanson, Joe <joe.swanson@foley.com>; Matthews, Mike <MMatthews@foley.com>; Gerencir, Samantha M. <samantha.gerencir@foley.com>; Benjamin, Olivia <obenjamin@foley.com>; Santella, Amanda M. <asantella@omm.com>; Drake, Scott (<sdrake@omm.com> <sdrake@omm.com>); Nagle, Catherine <cnagle@omm.com>; McDonnell, Kelly <kmcdonnell@omm.com>; Kohli, Rahul <rkohli@omm.com>; Hindman, Evan <ehindman@omm.com>; Tschepik, Nathan <ntschepik@omm.com>
Cc: Chandra Napora <Chandra.Napora@morganverkamp.com>; Jonathan Lischak <Jonathan.Lischak@morganverkamp.com>; Traci Ann Smith <tsmith@morganverkamp.com>; Rabin, Adam <arabin@rkjlawgroup.com>; Havan Clark <hclark@rkjlawgroup.com>; Ken Nolan <ken@whistleblowerfirm.com>; Marcella Auerbach <marcella@whistleblowerfirm.com>
Subject: RE: [U.S. ex rel. Zafirov v. Physician Partners, et al.] Notice of Intent to Depose; Request for Availability

Joe,

Following up on the email that I sent last Thursday, Relator needs to get the depositions noticed so we can make full use of the limited time in the discovery period. Please let me know if you have identified available dates for the individuals that we provided. If not, we will go ahead and notice the depositions and then can coordinate if there are conflicts.

Thanks,

Jill

Jillian L. Estes | 513-448-1251 | jillian.estes@morganverkamp.com
MORGAN VERKAMP, LLC

From: Jillian Estes
Sent: Thursday, March 21, 2024 6:27 PM
To: Mehta, Jason <jmehta@foley.com>; Valiente, Lauren L. <LValiente@foley.com>; Swanson, Joe <joe.swanson@foley.com>; Matthews, Mike <MMatthews@foley.com>; Gerencir, Samantha M. <samantha.gerencir@foley.com>; Benjamin, Olivia <obenjamin@foley.com>; Santella, Amanda M. <asantella@omm.com>; Drake, Scott (<sdrake@omm.com> <sdrake@omm.com>); 'Nagle, Catherine' <cnagle@omm.com>; McDonnell, Kelly <kmcdonnell@omm.com>; Kohli, Rahul <rkohli@omm.com>; Hindman, Evan <ehindman@omm.com>; Tschepik, Nathan <ntschepik@omm.com>
Cc: Chandra Napora <Chandra.Napora@morganverkamp.com>; Jonathan Lischak <Jonathan.Lischak@morganverkamp.com>; Traci Ann Smith <tsmith@morganverkamp.com>; Rabin, Adam <arabin@rkjlawgroup.com>; Havan Clark <hclark@rkjlawgroup.com>; Ken Nolan <ken@whistleblowerfirm.com>;

Marcella Auerbach <marcella@whistleblowerfirm.com>

Subject: [U.S. ex rel. Zafirov v. Physician Partners, et al.] Notice of Intent to Depose; Request for Availability

Joe,

Per our call today, this email serves as Relator's notice of intent to take the depositions of the following witnesses, and a request for their availability: Emily Gallman, Sajitha Johnson, Rajiv Patel, Syed Dastagir, and Ratnakar Mekala. Please provide the availability for these witnesses beginning Friday, April 4, 2024. Also, please note that this is not a comprehensive list of Relator's intended deponents, but an initial list to get the scheduling started.

I have copied Freedom/Optimum's counsel here so all parties are aware of the dates and can attend if so desired.

Thank you,

Jill

Jillian L. Estes | 513-448-1251 | jillian.estes@morganverkamp.com

MORGAN VERKAMP, LLC

The information contained in this message, including but not limited to any attachments, may be confidential or protected by the attorney-client or work-product privileges. It is not intended for transmission to, or receipt by, any unauthorized persons. If you have received this message in error, please (i) do not read it, (ii) reply to the sender that you received the message in error, and (iii) erase or destroy the message and any attachments or copies. Any disclosure, copying, distribution or reliance on the contents of this message or its attachments is strictly prohibited, and may be unlawful. Unintended transmission does not constitute waiver of the attorney-client privilege or any other privilege. Legal advice contained in the preceding message is solely for the benefit of the Foley & Lardner LLP client(s) represented by the Firm in the particular matter that is the subject of this message, and may not be relied upon by any other party. Unless expressly stated otherwise, nothing contained in this message should be construed as a digital or electronic signature, nor is it intended to reflect an intention to make an agreement by electronic means.

EXHIBIT B

Jillian Estes

From: Jillian Estes
Sent: Friday, May 3, 2024 10:17 PM
To: Amanda Santella; Catherine Nagle; Evan Hindman; Kelly McDonnell; Nathan Tschepik; Rahul Kohli; Scott Drake; Jason Mehta; Joe Swanson; Lauren Valiente; Lee Bentley; Mike Matthews; Olivia Benjamin; Samantha Gerencir
Cc: Chandra Napora; Jonathan Lischak; Traci Ann Smith; Anne Hayes Hartman; Angela Jordan; Adam Rabin; Havan Clark; Jennifer Verkamp
Subject: [U.S. ex rel. Zafirov v. Physician Partners, et al] Deposition Schedule

Counsel,

The following is a chart of the remaining deposition schedule according to the availabilities that we have been provided thus far. The dates marked as “requested” have been marked as requested from Ryan Stumphauzer, and I will update the group when he confirms availability. The party witnesses who we have slotted in but need to confirm their availability are Mital Panara (Freedom) on 6/10/24 and Rajiv Patel (PP) on 6/13/24. If the respective counsel can confirm those dates, please, and if the witnesses are not available on those dates, provide alternative dates before June 14.

Date	Witness	Location
5/6/2024	Mihale, Dennis	Remote
5/7/2024	Johnson, Sajitha	Remote – Witness in CST, 10:00 am EST start time
5/9/2024	Kortsch, Diane	Remote – Witness in CST, 11:00 am EST start time
5/14/2024	English, Cathy	Sarasota
5/15/2024	Rai, Radha	Remote – Counsel in PST, start time to be discussed
5/17/2024	Molina, Michelle	Remote
5/23/2024	PP 30(b)(6) - Barber	Remote
5/24/2024	Pagidipati, Sidd	Remote
5/28/2024	Zafirov, Clarissa	Tampa
5/29/2024	Zafirov, Clarissa	Tampa
5/30/2024 – requested	Kelly, Karen	Remote – Counsel in PST, start time to be discussed
5/31/2024 – requested	Garreau, Nancy	Remote
6/5/2024	Hans, Sangeeta	Tampa
6/6/2024	VIPCare 30(b)(6) - Gallman	Tampa
6/7/2024	Lavin, Alex	Tampa
6/10/2024	Panara, Mital	Remote
6/11/2024	Dastigir, Syed	Remote – Witness in India, 7:30 am EST start time
6/12/2024	Anion 30(b)(6) - Mandala	Remote – Witness in India, 7:30 am EST start time
6/13/2024	Patel, Rajiv	Remote
6/14/2024	Kollefrath, Dan	Tampa

Please let us know if any of these dates are not consistent with your records as soon as possible. We will issue notices/amended notices next week if there are no corrections to this list.

Thank you,

Jill

Jillian L. Estes | 513-448-1251 | jillian.estes@morganverkamp.com
MORGAN VERKAMP, LLC

EXHIBIT C

Jillian Estes

From: McDonnell, Kelly <kmcdonnell@omm.com>
Sent: Wednesday, June 12, 2024 8:53 PM
To: Anne Hayes Hartman
Cc: Jillian Estes; Amanda Santella; Catherine Nagle; Evan Hindman; Nathan Tschepik; Rahul Kohli; Scott Drake; Jason Mehta; Joe Swanson; Lauren Valiente; Lee Bentley; Mike Matthews; Olivia Benjamin; Samantha Gerencir; Chandra Napora; Jonathan Lischak; Traci Ann Smith; Angela Jordan; Adam Rabin; Havan Clark
Subject: RE: [U.S. ex rel Zafirov v. Physician Partners et al] Schedule Next Week

-- External Email --

Anne, we have the following contact information for Mr. Panara:

Mital Panara

[REDACTED]
Home: [REDACTED]

-Kelly

Kelly McDonnell
O: +1-202-383-5328
kmcdonnell@omm.com

From: Anne Hayes Hartman <Anne.Hartman@morganverkamp.com>
Sent: Wednesday, June 12, 2024 5:15 PM
To: McDonnell, Kelly <kmcdonnell@omm.com>
Cc: Jillian Estes <Jillian.Estes@morganverkamp.com>; Santella, Amanda M. <asantella@omm.com>; Nagle, Catherine <cnagle@omm.com>; Hindman, Evan <ehindman@omm.com>; Tschepik, Nathan <ntschepik@omm.com>; Kohli, Rahul <rkohli@omm.com>; Drake, Scott <sdrake@omm.com>; Jason Mehta <jmehta@foley.com>; Joe Swanson <joe.swanson@foley.com>; Lauren Valiente <LValiente@foley.com>; Lee Bentley <lbentley@bradley.com>; Mike Matthews <MMatthews@foley.com>; Olivia Benjamin <obenjamin@foley.com>; Samantha Gerencir <samantha.gerencir@foley.com>; Chandra Napora <Chandra.Napora@morganverkamp.com>; Jonathan Lischak <Jonathan.Lischak@morganverkamp.com>; Traci Ann Smith <tsmith@morganverkamp.com>; Angela Jordan <Angela.Jordan@morganverkamp.com>; Adam Rabin <arabin@rkjlawgroup.com>; Havan Clark <hclark@rkjlawgroup.com>
Subject: RE: [U.S. ex rel Zafirov v. Physician Partners et al] Schedule Next Week

[EXTERNAL MESSAGE]

Kelly – Nice to meet you too. My email asked two questions, first for any contact information for this witness who is your client’s former employee, and second for your availability to reschedule this deposition. I take your pledged objection to Relator’s pursuit of this deposition as a response to the second question, and Relator will proceed as needed with scheduling her discovery. I note also that you have failed to respond to the first question for contact information. While we will proceed as needed, if this was an oversight on your part, I look forward to receiving the contact information for this former employee.

Anne Hayes Hartman

MORGAN VERKAMP LLC

Direct: 513.486.6362

From: McDonnell, Kelly <kmcdonnell@omm.com>**Sent:** Wednesday, June 12, 2024 3:23 PM**To:** Anne Hayes Hartman <Anne.Hartman@morganverkamp.com>**Cc:** Jillian Estes <Jillian.Estes@morganverkamp.com>; Amanda Santella <asantella@omm.com>; Catherine Nagle <cnagle@omm.com>; Evan Hindman <ehindman@omm.com>; Nathan Tschepik <ntschepik@omm.com>; Rahul Kohli <rkohli@omm.com>; Scott Drake <sdrake@omm.com>; Jason Mehta <jmehta@foley.com>; Joe Swanson <joe.swanson@foley.com>; Lauren Valiente <LValiente@foley.com>; Lee Bentley <lbentley@bradley.com>; Mike Matthews <MMatthews@foley.com>; Olivia Benjamin <obenjamin@foley.com>; Samantha Gerencir <samantha.gerencir@foley.com>; Chandra Napora <Chandra.Napora@morganverkamp.com>; Jonathan Lischak <Jonathan.Lischak@morganverkamp.com>; Traci Ann Smith <tsmith@morganverkamp.com>; Angela Jordan <Angela.Jordan@morganverkamp.com>; Adam Rabin <arabin@rkjlawgroup.com>; Havan Clark <hclark@rkjlawgroup.com>**Subject:** RE: [U.S. ex rel Zafirov v. Physician Partners et al] Schedule Next Week

-- External Email --

Anne:

Your statements below make no sense based on our prior communications or the deposition history in this case. On April 11, I sent the following email to Relator's counsel: "We learned that Mital Panara is no longer with Freedom. We are working to get contact information for him that we can provide to Ryan Stumphauzer." The next day, I reiterated this message during a meet and confer regarding deposition scheduling. We shared Mr. Panara's information with Mr. Stumphauzer shortly thereafter. And we confirmed that Freedom Defendants would be available for the June 10 deposition date that Relator noticed for Mr. Panara. That is where Freedom Defendants' responsibility ends.

At no point did Freedom Defendants represent that we would "coordinate contact" or any other aspect of Relator's deposition for her. Obviously that is not Freedom's obligation, nor is it consistent with past practice in this case. Indeed, for other former Freedom employees, such as Nancy Gareau and Karen Kelly, Relator coordinated the depositions directly with their counsel. Relator also issued subpoenas to those witnesses at least two weeks in advance as the rules require. We reasonably assumed that Relator would coordinate directly with Mr. Panara and/or his counsel, and would issue a timely subpoena, just like with other third-party deponents.

In sum, it appears from your email that Relator noticed a date for a deposition to all parties without ever making contact with the witness or his counsel—even after we told you twice that he is not currently a Freedom employee—and never even attempted to subpoena Mr. Panara. You apparently only realized your mistake days before the deposition. Your suggestion that your negligence is somehow Freedom Defendants' responsibility is belied by your conduct with respect to other third-party witnesses who are former Freedom Defendant employees.

Fact discovery is now over, and Freedom Defendants will object to any attempt by Relator to subpoena and/or depose this witness after the fact-discovery deadline.

Kelly

Kelly McDonnell

O: +1-202-383-5328

kmcdonnell@omm.com

From: Anne Hayes Hartman <Anne.Hartman@morganverkamp.com>**Sent:** Tuesday, June 11, 2024 9:45 PM

To: McDonnell, Kelly <kmcdonnell@omm.com>

Cc: Jillian Estes <Jillian.Estes@morganverkamp.com>; Santella, Amanda M. <asantella@omm.com>; Nagle, Catherine <cnagle@omm.com>; Hindman, Evan <ehindman@omm.com>; Tschepik, Nathan <ntschepek@omm.com>; Kohli, Rahul <rkohli@omm.com>; Drake, Scott <sdrake@omm.com>; Jason Mehta <jmehta@foley.com>; Joe Swanson <joe.swanson@foley.com>; Lauren Valiente <LValiente@foley.com>; Lee Bentley <lbentley@bradley.com>; Mike Matthews <MMatthews@foley.com>; Olivia Benjamin <obenjamin@foley.com>; Samantha Gerencir <samantha.gerencir@foley.com>; Chandra Napora <Chandra.Napora@morganverkamp.com>; Jonathan Lischak <Jonathan.Lischak@morganverkamp.com>; Traci Ann Smith <tsmith@morganverkamp.com>; Angela Jordan <Angela.Jordan@morganverkamp.com>; Adam Rabin <arabin@rkjlawgroup.com>; Havan Clark <hclark@rkjlawgroup.com>

Subject: Re: [U.S. ex rel Zafirov v. Physician Partners et al] Schedule Next Week

[EXTERNAL MESSAGE]

Today we were told by Mr. Stumphauzer that he has still not been able to contact Mr. Panara and believed that it was “doubtful” that he would represent him. In April, Freedom informed Relator that it would be coordinating contact between Mr. Stumphauzer and Mr. Panara. Based on the agreement on dates between counsel, a subpoena was not issued and was to be sent out when we requested confirmation of the start time last week. We understand Mr. Stumphauzer was aware of the 6/10 deposition date for Mr. Panara and had blocked his time for it, but while Mr. Stumphauzer endeavored to contact Mr. Panara to prepare for that deposition, the witness was nonresponsive.

Since we have just learned that Mr. Panara will not be represented by Mr. Stumphauzer, we now must undertake to serve him individually and in-person. However, Mr. Panara (despite his position with plain involvement in the conduct at issue) has not been listed on Freedom’s Rule 26 disclosures and we were not provided contact information for him upon discovery that he was not employed. We received only the name of counsel who does not represent him.

Please provide all known contact information for Mr. Panara , including the last known communication between Mr. Panara and Freedom’s counsel or any representative of Freedom. Please also provide counsel’s next availability for his deposition so we can notice the deposition for a mutually-agreeable date.

Anne Hayes Hartman

MORGAN VERKAMP LLC

Direct: [513.486.6362](tel:513.486.6362)

On Jun 8, 2024, at 4:16 AM, McDonnell, Kelly <kmcdonnell@omm.com> wrote:

-- External Email --

Hi Jill,

Would you please forward the subpoena for Mr. Panara? I realize we did not receive it and would like a copy.

Thanks!
Kelly

Kelly McDonnell
O: +1-202-383-5328
kmcdonnell@omm.com

From: Jillian Estes <Jillian.Estes@morganverkamp.com>
Sent: Friday, June 7, 2024 10:51 PM
To: Santella, Amanda M. <asantella@omm.com>; Nagle, Catherine <cnagle@omm.com>; Hindman, Evan <ehindman@omm.com>; McDonnell, Kelly <kmcdonnell@omm.com>; Tschepik, Nathan <ntschepik@omm.com>; Kohli, Rahul <rkohli@omm.com>; Drake, Scott <sdrake@omm.com>; Jason Mehta <jmehta@foley.com>; Joe Swanson <joe.swanson@foley.com>; Lauren Valiente <LValiente@foley.com>; Lee Bentley <lbentley@bradley.com>; Mike Matthews <MMatthews@foley.com>; Olivia Benjamin <obenjamin@foley.com>; Samantha Gerencir <samantha.gerencir@foley.com>
Cc: Chandra Napora <Chandra.Napora@morganverkamp.com>; Jonathan Lischak <Jonathan.Lischak@morganverkamp.com>; Anne Hayes Hartman <Anne.Hartman@morganverkamp.com>; Traci Ann Smith <tsmith@morganverkamp.com>; Angela Jordan <Angela.Jordan@morganverkamp.com>; Adam Rabin <arabin@rkjlawgroup.com>; Havan Clark <hclark@rkjlawgroup.com>
Subject: [U.S. ex rel Zafirov v. Physician Partners et al] Schedule Next Week

[EXTERNAL MESSAGE]

Counsel,

The schedule for next week has been updated a bit so I wanted to make sure we're all on the same page. This is what I have:

1. Monday 6/10 – Deposition of Mital Panara is off the schedule for Monday (witness nonresponsive to counsel). Ryan Stumphauzer will continue to make efforts to reach Mr. Panara and the deposition will be reset when he is able to make contact.
2. Tuesday 6/11 – Deposition of Syed Dastigir is off the schedule by agreement between Relator and Provider Defendants; to be rescheduled if/when court retains jurisdiction after constitutional motion is resolved. Deposition of Chris Ideker (hybrid remote/in-person in Atlanta) begins at 11:00 am.
3. Wednesday 6/12 – Deposition of Anion 30(b)(6) is off the scheduled by agreement between Relator and Provider Defendants; to be rescheduled if/when court retains jurisdiction after constitutional motion is resolved. Deposition of Dr. George Mansour (remote) begins at 9:00 am.
4. Thursday 6/13 – Deposition of Rajiv Patel will now be fully remote, begins at 9 am.
5. Friday 6/14 – Deposition of Dan Kollefrath in-person at Foley's office in Tampa begins at 9 am.

Please let me know of any corrections or changes.

Have a nice weekend, all.

Jill

Jillian L. Estes | 513-448-1251 | jillian.estes@morganverkamp.com
MORGAN VERKAMP, LLC

EXHIBIT D

Jillian Estes

From: McDonnell, Kelly <kmcdonnell@omm.com>
Sent: Friday, June 21, 2024 6:56 PM
To: Jillian Estes; Evan Hindman; Traci Ann Smith; Amanda Santella; Catherine Nagle; Nathan Tschepik; Rahul Kohli; Scott Drake; Jason Mehta; Joe Swanson; Lauren Valiente; Lee Bentley; Mike Matthews; Olivia Benjamin; Samantha Gerencir; 'Mills, Dore'
Cc: Chandra Napora; Jonathan Lischak; Anne Hayes Hartman; Jennifer Verkamp; 'Adam Rabin'; 'Havan Clark'
Subject: RE: [U.S. ex rel. Zafirov v. Physician Partners et al] Notice of Third Party Subpoena, Panara

-- External Email --

Hi Jill,

Mr. Panara's counsel is Shane Warner and he can be reached at swarner@swarnerlaw.com or (813) 470-6341. We think it makes sense for all parties to join the call Monday to make sure everyone is on the same page and we can reach an agreement at the same time. Just to be clear, we plan to file the motion to quash on Monday but would like to do this on a regular schedule rather than an emergency basis.

Thanks,
Kelly

Kelly McDonnell
O: +1-202-383-5328
kmcdonnell@omm.com

From: Jillian Estes <Jillian.Estes@morganverkamp.com>
Sent: Friday, June 21, 2024 5:45 PM
To: McDonnell, Kelly <kmcdonnell@omm.com>; Hindman, Evan <ehindman@omm.com>; Traci Ann Smith <tsmith@morganverkamp.com>; Santella, Amanda M. <asantella@omm.com>; Nagle, Catherine <cnagle@omm.com>; Tschepik, Nathan <ntschepik@omm.com>; Kohli, Rahul <rkohli@omm.com>; Drake, Scott <sdrake@omm.com>; Jason Mehta <jmehta@foley.com>; Joe Swanson <joe.swanson@foley.com>; Lauren Valiente <LValiente@foley.com>; Lee Bentley <lbentley@bradley.com>; Mike Matthews <MMatthews@foley.com>; Olivia Benjamin <obenjamin@foley.com>; Samantha Gerencir <samantha.gerencir@foley.com>; 'Mills, Dore' <dmills@foley.com>
Cc: Chandra Napora <Chandra.Napora@morganverkamp.com>; Jonathan Lischak <Jonathan.Lischak@morganverkamp.com>; Anne Hayes Hartman <Anne.Hartman@morganverkamp.com>; Jennifer Verkamp <Jennifer.Verkamp@morganverkamp.com>; 'Adam Rabin' <arabin@rkjlawgroup.com>; 'Havan Clark' <hclark@rkjlawgroup.com>
Subject: RE: [U.S. ex rel. Zafirov v. Physician Partners et al] Notice of Third Party Subpoena, Panara

[EXTERNAL MESSAGE]

Hi Kelly and Evan,

Sorry I missed Evan's email with the timing earlier. And thank you for the clarification, Evan. Any agreement that we can make would depend on Mr. Panara's cooperation thereto, so since he's represented by counsel now, I think it would make most sense for us to start with him and then get back with you. We can reach out tonight though expect we won't have luck reaching him or her until Monday. Can you send the counsel's information to us and we'll start there?

Thanks,

Jill

From: McDonnell, Kelly <kmcdonnell@omm.com>

Sent: Friday, June 21, 2024 5:39 PM

To: Evan Hindman <ehindman@omm.com>; Jillian Estes <Jillian.Estes@morganverkamp.com>; Traci Ann Smith <tsmith@morganverkamp.com>; Amanda Santella <asantella@omm.com>; Catherine Nagle <cnagle@omm.com>; Nathan Tschepik <ntschepik@omm.com>; Rahul Kohli <rkohli@omm.com>; Scott Drake <sdrake@omm.com>; Jason Mehta <jmehta@foley.com>; Joe Swanson <joe.swanson@foley.com>; Lauren Valiente <LValiente@foley.com>; Lee Bentley <lbentley@bradley.com>; Mike Matthews <MMatthews@foley.com>; Olivia Benjamin <obenjamin@foley.com>; Samantha Gerencir <samantha.gerencir@foley.com>; 'Mills, Dore' <dmills@foley.com>

Cc: Chandra Napora <Chandra.Napora@morganverkamp.com>; Jonathan Lischak

<Jonathan.Lischak@morganverkamp.com>; Anne Hayes Hartman <Anne.Hartman@morganverkamp.com>; Jennifer Verkamp <Jennifer.Verkamp@morganverkamp.com>; 'Adam Rabin' <arabin@rkjlawgroup.com>; 'Havan Clark' <hclark@rkjlawgroup.com>

Subject: RE: [U.S. ex rel. Zafirov v. Physician Partners et al] Notice of Third Party Subpoena, Panara

-- External Email --

Hi Jill,

Are you available to chat at 6 pm ET? Evan and I are free generally until 6:30 pm ET today. I can send a calendar invite with a dial-in if that works for you.

Thanks!

Kelly McDonnell

O: +1-202-383-5328

kmcdonnell@omm.com

From: Hindman, Evan <ehindman@omm.com>

Sent: Friday, June 21, 2024 4:43 PM

To: Jillian Estes <Jillian.Estes@morganverkamp.com>; Traci Ann Smith <tsmith@morganverkamp.com>; Santella, Amanda M. <asantella@omm.com>; Nagle, Catherine <cnagle@omm.com>; McDonnell, Kelly <kmcdonnell@omm.com>; Tschepik, Nathan <ntschepik@omm.com>; Kohli, Rahul <rkohli@omm.com>; Drake, Scott <sdrake@omm.com>; Jason Mehta <jmehta@foley.com>; Joe Swanson <joe.swanson@foley.com>; Lauren Valiente <LValiente@foley.com>; Lee Bentley <lbentley@bradley.com>; Mike Matthews <MMatthews@foley.com>; Olivia Benjamin <obenjamin@foley.com>; Samantha Gerencir <samantha.gerencir@foley.com>; 'Mills, Dore' <dmills@foley.com>

Cc: Chandra Napora <Chandra.Napora@morganverkamp.com>; Jonathan Lischak

<Jonathan.Lischak@morganverkamp.com>; Anne Hayes Hartman <Anne.Hartman@morganverkamp.com>; Jennifer Verkamp <Jennifer.Verkamp@morganverkamp.com>; 'Adam Rabin' <arabin@rkjlawgroup.com>; 'Havan Clark' <hclark@rkjlawgroup.com>

Subject: RE: [U.S. ex rel. Zafirov v. Physician Partners et al] Notice of Third Party Subpoena, Panara

Hi Jill,

That's right, we would take the deposition off calendar and agree to reschedule to a date that works for all parties if the Court denies our motion to quash. We spoke with Mr. Panara's counsel earlier today and this plan works for them as well. As far as additional logistics, we are happy to discuss and could pass along any messages, but we can't speak for him, of course. Thanks for sending the proof of service.

We are generally available this afternoon, but prefer to chat before 6:30 pm ET, if possible.

Thanks,
Evan

Evan P. Hindman
O: +1-415-984-8709
ehindman@omm.com

From: Jillian Estes <Jillian.Estes@morganverkamp.com>

Sent: Friday, June 21, 2024 10:52 AM

To: Hindman, Evan <ehindman@omm.com>; Traci Ann Smith <tsmith@morganverkamp.com>; Santella, Amanda M. <asantella@omm.com>; Nagle, Catherine <cnagle@omm.com>; McDonnell, Kelly <kmcdonnell@omm.com>; Tschepik, Nathan <ntschepek@omm.com>; Kohli, Rahul <rkohli@omm.com>; Drake, Scott <sdrake@omm.com>; Jason Mehta <jmehta@foley.com>; Joe Swanson <joe.swanson@foley.com>; Lauren Valiente <LValiente@foley.com>; Lee Bentley <lbentley@bradley.com>; Mike Matthews <MMatthews@foley.com>; Olivia Benjamin <obenjamin@foley.com>; Samantha Gerencir <samantha.gerencir@foley.com>; 'Mills, Dore' <dmills@foley.com>

Cc: Chandra Napora <Chandra.Napora@morganverkamp.com>; Jonathan Lischak <Jonathan.Lischak@morganverkamp.com>; Anne Hayes Hartman <Anne.Hartman@morganverkamp.com>; Jennifer Verkamp <Jennifer.Verkamp@morganverkamp.com>; 'Adam Rabin' <arabin@rkjlawgroup.com>; 'Havan Clark' <hclark@rkjlawgroup.com>

Subject: RE: [U.S. ex rel. Zafirov v. Physician Partners et al] Notice of Third Party Subpoena, Panara

[EXTERNAL MESSAGE]

Hi Evan,

The proof of service of the deposition subpoena to Mr. Panara is attached.

We're happy to confer with you as requested but a little confused by your proposal. What we understood your request to be is that we agree to a standard briefing schedule which would necessitate moving the deposition off of the currently scheduled June 28, 2024 date, and that if the court denies your motion to quash, you would not further object on the basis that the scheduled date has passed, such that we would reach a mutually agreeable later date. Assuming we have that right, we do have some questions about the logistics with the witness, who it sounds as though you've been in touch with. Do you have a few minutes to jump on a call later this afternoon and I think we can iron it all out?

Thanks,

Jill

Jillian L. Estes | 513-448-1251 | jillian.estes@morganverkamp.com
MORGAN VERKAMP, LLC

From: Hindman, Evan <ehindman@omm.com>

Sent: Friday, June 21, 2024 12:26 AM

To: Traci Ann Smith <tsmith@morganverkamp.com>; Amanda Santella <asantella@omm.com>; Catherine Nagle <cnagle@omm.com>; Kelly McDonnell <kmcdonnell@omm.com>; Nathan Tschepik <ntschepek@omm.com>; Rahul Kohli <rkohli@omm.com>; Scott Drake <sdrake@omm.com>; Jason Mehta <jmehta@foley.com>; Joe Swanson <joe.swanson@foley.com>; Lauren Valiente <LValiente@foley.com>; Lee Bentley <lbentley@bradley.com>; Mike Matthews <MMatthews@foley.com>; Olivia Benjamin <obenjamin@foley.com>; Samantha Gerencir <samantha.gerencir@foley.com>; 'Mills, Dore' <dmills@foley.com>

Cc: Jillian Estes <Jillian.Estes@morganverkamp.com>; Chandra Napora <Chandra.Napora@morganverkamp.com>; Jonathan Lischak <Jonathan.Lischak@morganverkamp.com>; Anne Hayes Hartman <Anne.Hartman@morganverkamp.com>; Jennifer Verkamp <Jennifer.Verkamp@morganverkamp.com>; 'Adam Rabin' <arabin@rkjlawgroup.com>; 'Havan Clark' <hclark@rkjlawgroup.com>
Subject: RE: [U.S. ex rel. Zafirov v. Physician Partners et al] Notice of Third Party Subpoena, Panara

-- External Email --

Counsel,

We received the notice for Mr. Panara's June 28 deposition, which you sent to the parties on Friday evening. We learned today that Mr. Panara was personally served earlier this week. At your earliest convenience, can you provide us with a copy of the deposition subpoena reflecting when he was served?

We are writing to meet and confer about our opposition to the deposition. We plan to file a time-sensitive motion to quash on Monday, and would like to meet and confer with you sometime tomorrow (Friday). However, we would prefer not to file a time-sensitive motion to avoid burdening the Court. Would Relator agree to a standard briefing schedule if Freedom Defendants agree to let the deposition go forward at some later date if the court denies Freedom's motion to quash?

Please let us know your availability to discuss.

Thanks,
Evan

Evan P. Hindman
O: +1-415-984-8709
ehindman@omm.com

From: Traci Ann Smith <tsmith@morganverkamp.com>

Sent: Friday, June 14, 2024 3:51 PM

To: Santella, Amanda M. <asantella@omm.com>; Nagle, Catherine <cnagle@omm.com>; Hindman, Evan <ehindman@omm.com>; McDonnell, Kelly <kmcdonnell@omm.com>; Tschepik, Nathan <ntschepik@omm.com>; Kohli, Rahul <rkohli@omm.com>; Drake, Scott <sdrake@omm.com>; Jason Mehta <jmehta@foley.com>; Joe Swanson <joe.swanson@foley.com>; Lauren Valiente <LValiente@foley.com>; Lee Bentley <lbentley@bradley.com>; Mike Matthews <MMatthews@foley.com>; Olivia Benjamin <obenjamin@foley.com>; Samantha Gerencir <samantha.gerencir@foley.com>; 'Mills, Dore' <dmills@foley.com>

Cc: Jillian Estes <Jillian.Estes@morganverkamp.com>; Chandra Napora <Chandra.Napora@morganverkamp.com>; Jonathan Lischak <Jonathan.Lischak@morganverkamp.com>; Anne Hayes Hartman <Anne.Hartman@morganverkamp.com>; Jennifer Verkamp <Jennifer.Verkamp@morganverkamp.com>; 'Adam Rabin' <arabin@rkjlawgroup.com>; 'Havan Clark' <hclark@rkjlawgroup.com>

Subject: [U.S. ex rel. Zafirov v. Physician Partners et al] Notice of Third Party Subpoena, Panara

[EXTERNAL MESSAGE]

Counsel,

Please find attached a Notice of Third Party Subpoena for Mital Panara.

Thank you,
Traci A. Smith

Paralegal

MORGAN VERKAMP LLC

4410 Carver Woods Dr., Suite 200

Blue Ash, Ohio 45242

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Mobile: 859-803-0504

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MORGAN VERKAMP LLC

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EXHIBIT E

Jillian Estes

From: McDonnell, Kelly <kmcdonnell@omm.com>
Sent: Monday, June 24, 2024 1:27 PM
To: Anne Hayes Hartman; swarner@swarnerlaw.com
Cc: Jillian Estes
Subject: RE: US ex rel Zafirov - Panara deposition

-- External Email --

Thank you!

Kelly McDonnell
O: +1-202-383-5328
kmcdonnell@omm.com

From: Anne Hayes Hartman <Anne.Hartman@morganverkamp.com>
Sent: Monday, June 24, 2024 1:13 PM
To: swarner@swarnerlaw.com
Cc: Jillian Estes <Jillian.Estes@morganverkamp.com>; McDonnell, Kelly <kmcdonnell@omm.com>
Subject: US ex rel Zafirov - Panara deposition

[EXTERNAL MESSAGE]

Shane –

Thanks for talking this morning about the deposition of Mr. Panara in the *U.S. ex rel. Zafirov* matter. You confirmed that you will be representing Mr. Panara for the purposes of this deposition. We appreciate your representation that you will be able to accept service of any follow-on subpoena for Mr. Panara that may be necessary as the parties in the underlying litigation work to resolve discovery disputes. Based on this, we can agree to take the June 28th deposition off calendar. As we discussed, we aren't in a position to confirm alternate dates at this point, but you confirmed that Mr. Panara will have some available dates over the next months (although we will work to avoid the first few weeks of August).

I've copied Freedom's counsel Kelly McDonnell on this, so that she is in the loop on our discussions.

Thanks so much, and let me know if you have any questions.

Anne Hayes Hartman
MORGAN VERKAMP LLC
4410 Carver Woods Drive, Suite 200
Cincinnati, OH 45242
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Anne.Hartman@MorganVerkamp.com



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