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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Victor Antonio Parsons, et al.,

No. CV-12-00601-PHX-ROS

10 Plaintiffs,

**ORDER**

11 v.

12 Charles L Ryan, et al.,

13 Defendants.  
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15 On October 27, 2019, Leonel Urdaneta, M.D., sent an email to Plaintiffs' counsel.  
16 That email explained Dr. Urdaneta previously worked as "Director of Psychiatry for the  
17 AZ-Corizon contract." In that position, Dr. Urdaneta witnessed "dysfunctions" that  
18 "caused tremendous harm to patients, including suicides and severe self-injurious  
19 damage." Dr. Urdaneta wished to speak with Plaintiffs' counsel to "bring[] to light" those  
20 "dysfunctions." After receiving that email, Plaintiffs' counsel contacted counsel for  
21 Corizon and asked whether Corizon would "assert any objection" to Plaintiffs' counsel  
22 speaking with Dr. Urdaneta. Corizon's counsel responded, copying defense counsel,  
23 "ADC and Corizon jointly object to communications with Dr. Urdaneta without having  
24 defense counsel present." Corizon's counsel then stated Plaintiffs' counsel "will need to  
25 coordinate a meeting, or, if you prefer, a deposition, with us, and again, defense counsel  
26 will need to be present for either option." Plaintiffs' counsel opted to set a deposition via  
27 a subpoena issued to Dr. Urdaneta. That subpoena prompted Defendants to file a motion  
28 to quash.

1 Defendants argue the subpoena is improper because it was issued after the close of  
2 discovery. (Doc. 3436 at 4). Defendants contend there is no “legal authority which allows  
3 [Plaintiff] to take this deposition . . . in a case that settled over five years ago.” (Doc. 3436  
4 at 6). Plaintiffs respond that Corizon’s counsel led them to believe a deposition was  
5 permissible and the deposition will provide “critical information” that could be useful in  
6 the parties’ upcoming settlement negotiations. (Doc. 3441 at 6). Importantly, Defendants  
7 concede that Plaintiffs’ counsel can “interview” Dr. Urdaneta but they object to that  
8 “interview” taking the form of a deposition.

9 It is true that in the usual case, a Rule 45 subpoena issued after the deadline for the  
10 completion of all discovery likely would be improper. *Ferreira v. Penzone*, No. CV-15-  
11 01845-PHX-JAT, 2018 WL 1706212, at \*1 (D. Ariz. Apr. 9, 2018). But the parties are  
12 well-aware that this is far from the usual case. And while this case settled over five years  
13 ago, the parties remain mired in disagreements over the agreed-upon monitoring of  
14 Defendants’ compliance with the Stipulation. Indeed, the Stipulation contemplates that  
15 Plaintiffs remain entitled to periodic updates regarding Defendants’ performance. Thus,  
16 Defendants continue to produce documents for review by Plaintiffs’ counsel and the Court  
17 on a regular basis. Thus, to simply premise their motion to quash on the end of discovery  
18 ignores the context and complexity of this action.

19 Moreover, Dr. Urdaneta is a willing witness who wishes to tell Plaintiffs’ counsel  
20 about his experiences during a period when the Stipulation was in place. Defendants have  
21 admitted that “Plaintiffs can informally interview Dr. Urdaneta within the presence of both  
22 Corizon and Defendants’ counsel.” (Doc. 3446 at 4). In other words, whether conducted  
23 as a deposition or as an “informal interview,” Defendants concede Plaintiffs’ counsel will  
24 be allowed to gather information from Dr. Urdaneta. This last fact is enough to merit  
25 denying the motion to quash. Defense counsel has offered no persuasive explanation why  
26 a deposition should be barred if an “interview,” with all counsel present, will happen  
27 anyway. Allowing a deposition instead of an “interview” will not materially increase the  
28 cost or complexity of that proceeding—the attorneys’ fees will be incurred regardless. And

1 placing Dr. Urdaneta under oath will have the added benefit of ensuring the accuracy of  
2 his testimony and make it possible his testimony could be used in future proceedings. In  
3 these unique circumstances, the deposition will be allowed to proceed.

4 Accordingly,

5 **IT IS ORDERED** the Motion to Quash (Doc. 3436) is **DENIED**.

6 Dated this 9th day of December, 2019.

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10 Honorable Roslyn O. Silver  
11 Senior United States District Judge  
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