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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.,

10 Plaintiffs,

11 v.

12 David Shinn, et al.,

13 Defendants.  
14

No. CV-12-00601-PHX-ROS

**ORDER**

15 De’Vonne Gonzales is suing Corizon Health Inc. and several of its employees in a  
16 separate lawsuit challenging the allegedly inadequate care Corizon provided to Gonzales’  
17 son for testicular cancer. *Gonzales v. Corizon Health Inc.*, CV-19-2190-PHX-JJT-CDB.  
18 During discovery, Gonzales issued a Rule 45 subpoena to the Arizona Department of  
19 Corrections (“ADC”) seeking documents allegedly relevant to her claims. In particular,  
20 the subpoena sought documents regarding Corizon’s performance of its contractual  
21 obligations and correspondence between ADC and Corizon. Some of the documents  
22 Gonzales sought had been filed in the present Parsons litigation. CV-19-2190-PHX-JJT-  
23 CDB, Doc. 91 at 9.

24 In the Gonzales matter, ADC responded to the Rule 45 subpoena by refusing to  
25 produce the documents. According to ADC, the Parsons Protective Order did not allow  
26 for such production. While not entirely clear, it appears ADC interpreted the Parsons  
27 Protective Order as limiting which of its own documents could be disclosed in other  
28 litigation. The magistrate judge handling discovery in Gonzales agreed with ADC and

1 directed Gonzales to intervene in Parsons to try to obtain the documents she seeks.

2 As a result of the magistrate judge's directions, on March 13, 2020, Gonzales filed  
3 in Parsons a "Motion to Intervene for Limited Purposed of Modification of Protective  
4 Order and/or Orders to Seal Filed Documents." (Doc. 3519). That motion argues Gonzales  
5 should be permitted to intervene for the limited purpose of modifying the Parsons  
6 Protective Order. Gonzales' motion does not, however, identify the specific modification  
7 she seeks or believes is required. Instead, Gonzales merely argues the Parsons Protective  
8 Order should be modified so that she is allowed "to seek discovery of the requested  
9 materials."

10 A few weeks later, instead of filing a response to Gonzales' motion, ADC and  
11 Gonzales filed a stipulation indicating they had agreed to modify the Parsons Protective  
12 Order to allow Gonzales to obtain the discovery she seeks, subject to the supervision of the  
13 magistrate or district judge handling the Gonzales matter. (Doc. 3551). But like Gonzales'  
14 motion, the stipulation does not set forth any specific proposed modification to the Parsons  
15 Protective Order. Instead, the stipulation merely states ADC "will not object to the  
16 production of materials based on the fact the materials are subject to the Protective Order."  
17 (Doc. 3551 at 2).

18 Shortly after ADC and Gonzales filed their stipulation, Corizon filed its own  
19 "Motion to Intervene for Limited Purpose" in Parsons. (Doc. 3555). In that motion  
20 Corizon explains it seeks to intervene for the "very limited purpose" of expressing its  
21 position regarding the manner in which Gonzales must seek certain documents. According  
22 to Corizon, "the Gonzales court should first make any and all substantive discoverability  
23 determinations on any discovery requests and documents/information." (Doc. 3555 at 2).  
24 Only once the Gonzalez court makes those determinations "may Plaintiff request that those  
25 specific, relevant documents be unsealed in the instant litigation." It is not clear what  
26 Corizon is seeking through its motion but it appears that Corizon, like ADC and Gonzales,  
27 believes the magistrate or district judge handling the Gonzales matter should resolve  
28 whether particular documents are discoverable.

1           The Court has reviewed the Parsons Protective Order and its terms make it difficult  
2 to understand the position ADC adopted in the Gonzales matter. (Doc. 454). Under the  
3 Protective Order, “confidential information” received from an opposing party cannot be  
4 disseminated except to a specified list of individuals. (Doc. 454 at 3-4). Crucially,  
5 however, the Protective Order makes clear that it is not imposing any limitations on the  
6 parties’ handling of their own documents. The Protective Order provides, in relevant part:

7                           *Nothing in this order shall limit any party’s right to disclose to*  
8                           *any person, or use for any purpose, its own information and*  
9                           *documents.*

10 (Doc. 454 at 6) (emphasis in original). Given that unambiguous provision, it is unclear  
11 why or on what basis ADC resisted the discovery in the Gonzales matter based on the  
12 Parsons Protective Order. The documents being sought from ADC in the Gonzales matter  
13 appear to be ADC’s own documents and the Parsons Protective Order does not limit  
14 ADC’s rights regarding those documents in any way.<sup>1</sup>

15           It therefore appears that modification of the Parsons Protective Order is unnecessary  
16 for Gonzales to obtain the discovery she seeks. And even if some sort of modification is  
17 necessary, ADC and Gonzales have not identified the modification they believe should be  
18 made to permit that discovery. However, to avoid future difficulties, the Court will clarify  
19 that the magistrate and district judges handling the Gonzales matter should resolve the  
20 discoverability of ADC’s documents. The Protective Order does not prohibit ADC from  
21 producing documents to Gonzales, if appropriate.

22           There is no need for Gonzales or Corizon to intervene in this action pursuant to Rule  
23 24(b) to obtain this guidance. Therefore, the motions to intervene will be denied.  
24 Similarly, the stipulation between ADC and Gonzales will also be denied as unnecessary.

25           Accordingly,

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26 <sup>1</sup> The terms of the Protective Order distinguish this case from the situation presented in  
27 *Foltz v. State Farm Mutual Automobile Insurance Co.*, 331 F.3d 1122, 1128 (9th Cir.  
28 2003). The protective order in that case prohibited the further disclosure of confidential  
information “by the Producing Party, the [Requesting/]Disclosing Party or Witnesses.” *Id.*  
In other words, that protective order prohibited a party from disclosing its own documents  
outside of the litigation. There is no such limitation in the present case.

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**IT IS ORDERED** the Motions to Intervene (Doc. 3519, 3555) are **DENIED**.

**IT IS FURTHER ORDERED** the Stipulation (Doc. 3551) is **DENIED**.

Dated this 17th day of April, 2020.



Honorable Roslyn O. Silver  
Senior United States District Judge