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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Marina Padilla, et al.,
10 Plaintiffs,

11 v.

12 Veyo LLC, et al.,
13 Defendants.
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No. CV-23-02380-PHX-JAT

ORDER

15 Pending before the Court is another discovery dispute of the parties. (Doc. 52).¹
16 This dispute involved (alleged) correspondence between Plaintiffs' counsel and "Copa
17 Health caseworker, [S.] Thompson, who allegedly told Waldo's mother, Plaintiff Padilla,
18 that the first Veyo driver cancelled and Defendants dispatched a second Veyo driver to the
19 apartment at 2:45pm." (*Id.* at 1).

20 In her deposition, S. Thompson testified that she, "emailed to Mr. Portell, as one of
21 a 'handful' of emails to him, a screenshot from the Veyo portal showing the driver that was
22 to pick up Figueroa on 12/15/2022 and confirmation it was completed, (2) [] emailed a
23 similar, if not identical, screenshot to Plaintiff Parrot and (3) [] emailed Mr. Portell and
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25 ¹ For context, a short summary of the allegations in this case follows. Plaintiffs allege that
26 a Veyo driver failed to transport a vulnerable adult to the correct location. (Doc. 13 at 2).
27 Defendants claim the vulnerable adult was never picked up by a Veyo driver, and as a
28 result, claim that Defendants should not be parties to this case. (Doc. 13 at 3). It appears
to be undisputed that a Veyo driver was dispatched to pick up the vulnerable adult. (Doc.
29 at 2). However, Defendants claim the vulnerable adult never went to the car and the
ride was cancelled. (Doc. 41 at 3). Conversely, Plaintiffs appear to claim that the
vulnerable adult actually got in the car of either the cancelled ride, or another Veyo driver.
(Doc. 41).

1 Diana Parrot readable screenshots.” (Doc. 52 at 2 (the quotation marks are to the parties’
2 summary of her testimony, not the deposition itself; the Court does not have a copy of the
3 deposition transcript). Defendants now claim that the emails and attachments S. Thompson
4 testified that she sent to Plaintiffs’ counsel have not been produced by Plaintiffs’ counsel,
5 despite a proper request for production having been made. (Doc. 52). Plaintiffs’ counsel
6 claims to have produced everything in his possession, which is two items: Figueroa066 (an
7 illegible screen shot) and Figueroa0046-47 (an email from Parrot containing the original
8 illegible screen shot). (*Id.*).

9 As indicated above, Defendants argue these 2 items do not represent everything S.
10 Thompson testified that she provided to Plaintiffs’ counsel. (*Id.*). Defendants imply
11 Plaintiffs’ counsel must either be withholding information or has destroyed information.
12 (*Id.*). Plaintiffs’ counsel states that he has searched his files in good faith and that this is all
13 he has. (*Id.*).

14 Defendants did not attach the proposed form of order required by this Court’s order
15 at Doc. 24 at 2,² so the Court cannot easily ascertain the relief they seek. The joint
16 discovery dispute ends by Defendants stating, “Defendants request the Court compel
17 responses to RFPs Nos. 1, 10, & 12 and order Plaintiffs to produce all responsive
18 documents without further delay and award any other relief in Defendants’ favor the Court
19 deems warranted. Defendants request that if any of the requested documents are no longer
20 in Plaintiffs’ possession (including counsel), then they should state such and explain why
21 the documents no longer exist.” (*Id.* at 4).

22 First, the Court has never seen RFPs 1, 10, and 12 so the Court cannot order
23 “complete” responses when the Court does not know what was requested. Next, “any other
24 relief” is vague and unenforceable. An “explanation” (presumably from Plaintiffs’

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26 ² “The party seeking relief in the joint motion must also submit a proposed
27 form of Order. The proposed form of Order may not be generic (for example,
28 “the motion to compel is granted” is generic). Instead the proposed form of
Order must detail exactly what is being required such that a third party with
no familiarity with this case could read the Order and have a complete
understanding of what was ordered by the Court. Failure to submit a
compliant order may result in the denial of the request.”

1 counsel) is not a legitimate form of relief. The Court will not compel Plaintiffs' counsel to
2 be a witness or explain how he manages his files. So, unfortunately, Defendants have not
3 proposed a form of grantable relief.

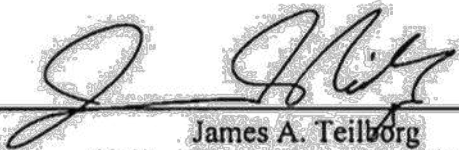
4 Plaintiffs' counsel has recommended that Defendants subpoena Copa Health to
5 verify what they have of S. Thompson's actions of the date of the incident, and records of
6 what was sent to Plaintiffs' counsel. (To this end, Plaintiffs have signed a HIPAA waiver.).
7 (Doc. 52 at 3). Defendants have sent the subpoena, but no response has been received.

8 As the Court stated in the Order of May 20, 2024, the Court cannot order a party or
9 counsel to produce something they claim does not exist. (Doc. 45 at 2-3). Plaintiffs'
10 counsel claims he has disclosed everything to Defendants and that he has searched for
11 everything responsive pursuant to Rule 11.³ (Doc. 52 at 3). Thus, any order requiring
12 further production would accomplish nothing.

13 As a result, Defendants can pursue the subpoena to Copa Health, and if that
14 subpoena produces documents that should have previously been disclosed, Defendants can
15 move for sanctions against Plaintiffs and/or Plaintiffs' counsel.⁴ Any such motion is due
16 within 14 days of the discovery of the documents. Until that time, there is nothing more
17 for the Court to order be produced.

18 Accordingly, **IT IS ORDERED** that the discovery dispute at Doc. 52 is resolved as
19 stated above.

20 Dated this 4th day of June, 2024.

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James A. Teilborg
Senior United States District Judge

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25 ³ The Court notes that the parties also dispute whether Plaintiffs' counsel was diligent in
26 producing the items already produced. There is some argument about whether the email
27 attachment between S. Thompson and Parrott was about the guardianship paperwork or the
28 date of the incident. Plaintiffs' counsel is cautioned that the gamesmanship of classifying
something as responsive to only one narrow request when it could reasonably be viewed
as responsive to other requests has resulted in dramatic sanctions in other cases. See
generally Goodyear Tire & Rubber Co. v. Haeger, 581 U.S. 101 (2017).

⁴ Any request for attorney's fees must comply with Doc. 24 at 2.