

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 14-CV-61577-BLOOM/VALLE

CLEANIEL EDWARDS, as personal
representative of the estate of
Raleigh Priester, *et al.*,

Plaintiffs,

v.

ARMOR CORRECTIONAL HEALTH
SERVICES, INC., *et al.*,

Defendants.

**ORDER DENYING DEFENDANTS' MOTION TO COMPEL
NON-PARTY WITNESSES' APPEARANCE AT DEPOSITION**

THIS MATTER is before the Court on Defendants' Motion to Compel Non-Party Witnesses' Appearance at Deposition (the "Motion"). (ECF No. 100). The Court has reviewed the Motion, the applicable law, and is otherwise duly advised in the premises. For the reasons set forth below, Defendants' Motion is **DENIED**.

On August 10, 2015, Defendants served two subpoenas duces tecum for deposition on two non-parties: (1) Tanveer Sobhan, M.D.; and (2) the records custodian of University Hospital and Medical Center. *See* (ECF No. 100-1 at 1-2). The subpoenas commanded the non-parties to appear for deposition on August 13, 2015—only three days later. (ECF No. 100 at 2). When the non-parties failed to appear for the depositions, Defendants filed the instant Motion to compel their depositions and to recover Defendants' attorney's fees and costs associated with the Motion and the missed depositions. *Id.* at 4.

Under Federal Rule of Civil Procedure 45(d)(1), a litigant serving a subpoena "must take

reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena.” The Court, in turn, “must enforce this duty[.]” Fed. R. Civ. P. 45(d)(1). As Defendants well know, a party does not fulfill this duty when it serves a subpoena that commands a non-party to appear for a deposition on three days’ notice. *See* (ECF No. 92) (denying Defendants’ motion to other compel non-parties to respond to subpoenas duces tecum on three days’ notice); *see also Subair Sys., LLC v. Precisionaire Sys., Inc.*, No. 08–60570–CIV, 2008 WL 1914876, at *2 n.4 (S.D. Fla. Apr.26, 2008) (finding that 10 days’ notice of a deposition “could be deemed ‘reasonable’” under Rule 45).

Accordingly, it is hereby **ORDERED AND ADJUDGED** that Defendants’ Motion is **DENIED**.

DONE AND ORDERED in Chambers in Fort Lauderdale, Florida, on August 17, 2015.



ALICIA O. VALLE
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:
United States District Judge Beth Bloom
All Counsel of Record