

## **EXHIBIT 7**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

JOHNNY FLORES,

Plaintiff,

v.

REYNALDO GUEVARA, *et al.*,

Defendants.

Case No. 23-cv-01736

Judge John J. Tharp, Jr.

**CONFIDENTIALITY ORDER**

Plaintiff's Motion to Compel Defendants to Proceed with Two Witness Depositions [56] is granted. Defendants are directed to promptly provide dates on which the subpoenaed depositions of Thurmond and Valdez can proceed. Plaintiff may question those witnesses first at the depositions. Except by agreement, neither side may use more than 3.5 hours of deposition time. See Statement below for details.

**STATEMENT**

The plaintiff seeks deposition priority with respect to two witnesses: Scott Thurmond and Tony Valdez. Both reside out of state and consequently neither is expected to be available for trial. Both testified previously in the plaintiff's criminal trial. Thurmond identified Flores in a lineup and testified that he saw Flores shoot the victim; he appears to have been a central witness for the prosecution in Flores's murder trial. Valdez, by contrast, testified in Flores's defense case. Valdez owned a restaurant into which Thurmond ran and sought to use the telephone to reach police; Valdez testified that Thurmond appeared to be drunk and disheveled and contradicted Thurmond's testimony in several respects.

Flores contends that he should have priority in conducting depositions of both Thurmond and Valdez because he served both of them with deposition subpoenas before the defendants did. The defendants counter that they noticed Thurmond's deposition first (although they concede that they did not issue a deposition notice or subpoena to Valdez, and that Valdez "is clearly adverse to defendants and aligned with Flores"). The primary dispute between the parties, however, is not scheduling the depositions but rather who gets to lead off the deposition questioning of each witness. Flores intends to present the testimony of both Thurmond and Valdez in his case-in-chief and argues that he should be given priority at each deposition to avoid the confusing mashup of their testimony that would be required to do so if the defendants were permitted to question these witnesses first. The defendants argue that priority should be based on witness alignment, with the

party not aligned with the witness leading off the questioning.<sup>1</sup>

As to these two witnesses, I agree with Flores. The simple fact is that if these witnesses were available for trial, Flores's counsel would question them first. I see no reason why the taking of testimony by deposition should proceed otherwise. This is particularly so where, as here, each of these witnesses has already testified at Flores's criminal trial and the general parameters of their testimony are known; the principal focus of these depositions is likely to be on sharpening trial testimony rather than on discovering facts; proceeding in a manner that more closely resembles the likely course of trial testimony should enhance clarity and comprehension. I also note that Thurmond is likely available to the defendants outside a deposition and the defendants have issued neither notice nor a subpoena for Valdez's deposition.

Finally, to ensure that each side has sufficient time to elicit testimony from these witnesses, the available deposition time will be split between them equally. The parties may, however, modify this allocation by agreement.

Date: January 2, 2024



John J. Tharp, Jr.  
United States District Judge

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<sup>1</sup> The defendants have also proposed a "draft" of witnesses across the various cases currently pending against them, in which each side would alternate selections of witnesses as to which they would have priority. In my view, employment of an arbitrary process like that would be a poor substitute for assessing the merits of competing claims for deposition priority.