

1 **WO**

2
3
4
5
6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

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 Defendants remain substantially noncompliant with a significant number of
16 Performance Measures at multiple locations. This noncompliance must be addressed while
17 the Court considers Dr. Stern's report and decides on a path forward. Based upon the Ninth
18 Circuit's recent conclusion that this Court may impose contempt sanctions to coerce
19 performance, further sanctions are appropriate. Defendants will therefore be required to
20 come into compliance with every Performance Measure that the Court has found
21 substantially noncompliant and Defendants have attempted to remedy with a remediation
22 plan.

23 The following Performance Measures have completed the process required by
24 paragraph 36 of the Stipulation:

- 25 • Performance Measure 11: Eyman, Florence, Lewis, Tucson, Winslow, Yuma.
26 • Performance Measure 12: Eyman, Florence.
27 • Performance Measure 13: Douglas, Eyman, Florence, Lewis, Perryville, Tucson,
28 Yuma.

- 1 • Performance Measure 14: Douglas, Eyman, Florence, Lewis, Perryville, Tucson,
2 Yuma.
- 3 • Performance Measure 15: Eyman, Florence, Lewis.
- 4 • Performance Measure 19: Eyman, Lewis, Phoenix.
- 5 • Performance Measure 20: Eyman, Florence, Lewis, Perryville, Phoenix, Tucson.
- 6 • Performance Measure 24: Lewis.
- 7 • Performance Measure 35: Eyman, Florence, Lewis, Phoenix, Tucson.
- 8 • Performance Measure 37: Eyman, Florence, Lewis, Tucson, Winslow, Yuma.
- 9 • Performance Measure 39: Eyman, Florence, Lewis, Perryville, Tucson, Yuma.
- 10 • Performance Measure 40: Eyman, Tucson.
- 11 • Performance Measure 42: Eyman, Florence, Lewis, Perryville.
- 12 • Performance Measure 44: Eyman, Florence, Lewis, Winslow.
- 13 • Performance Measure 45: Lewis, Tucson.
- 14 • Performance Measure 46: Douglas, Eyman, Florence, Lewis, Perryville, Phoenix,
15 Tucson, Yuma.
- 16 • Performance Measure 47: Douglas, Eyman, Florence, Lewis, Perryville, Phoenix,
17 Safford, Tucson, Winslow, Yuma.
- 18 • Performance Measure 49: Douglas, Eyman, Florence, Perryville, Phoenix, Tucson.
- 19 • Performance Measure 50: Florence, Perryville, Tucson.
- 20 • Performance Measure 51: Douglas, Eyman, Florence, Perryville, Tucson, Yuma.
- 21 • Performance Measure 52: Eyman, Florence, Perryville, Phoenix, Tucson.
- 22 • Performance Measure 54: Eyman, Florence, Lewis, Perryville, Phoenix, Tucson,
23 Yuma.
- 24 • Performance Measure 55: Eyman.
- 25 • Performance Measure 66: Florence, Lewis, Tucson.
- 26 • Performance Measure 67: Lewis, Tucson.
- 27 • Performance Measure 72: Eyman.
- 28 • Performance Measure 80: Lewis, Tucson.

- Performance Measure 85: Eyman, Florence, Lewis, Perryville, Tucson, Yuma.
- Performance Measure 91: Phoenix.
- Performance Measure 92: Eyman, Florence, Lewis, Perryville, Tucson.
- Performance Measure 93: Eyman, Florence, Lewis, Tucson.
- Performance Measure 94: Eyman, Florence, Perryville, Phoenix, Tucson.
- Performance Measure 97: Phoenix.
- Performance Measure 98: Douglas, Eyman, Florence, Lewis, Winslow.

(Doc. 3472).¹

Defendants must bring every Performance Measure identified above into immediate compliance. Defendants will be required to pay \$100,000 for each instance of future non-compliance with this Order. For the Performance Measures identified above that were compliant in the most recent numbers, Defendants must ensure those Performance Measures remain compliant. If Defendants do not bring every Performance Measure into compliance, or if Defendants allow any previously-compliant Performance Measure to become non-compliant, the Court will impose contempt sanctions unless Defendants can establish they took all reasonable steps to achieve compliance but still fell short. If Defendants are found in contempt, the Court will impose a fine of \$100,000 per Performance Measure per location to coerce compliance with this Order. The fines will recur on a monthly basis until Defendants bring each Performance Measure and location into compliance. For example, if Defendants do not bring Performance Measure 6 at Eyman into compliance by March 1, 2020, Defendants will be held in contempt and will be required to deposit \$100,000 with the Clerk of Court absent a showing that Defendants took all reasonable steps to come into compliance. Defendants will then be required to deposit an additional \$100,000 if Performance Measure 6 at Eyman is not brought into compliance by April 1, 2020.²

¹ These Performance Measures are those listed in Defendants' most recent status report. Those status reports are filed pursuant to an order by Magistrate Judge Duncan requiring Defendants to "report to the Court on a monthly basis . . . the current percentage compliance rates of the Performance Measures before this Court (i.e. Performance Measures that are before this Court following unsuccessful mediation)." (Doc. 1678 at 2).

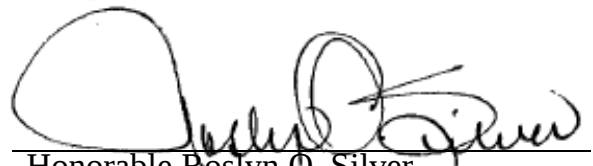
² The amount of fines, if any, that should be imposed pursuant to the Court's May 6, 2019,

1 Accordingly,

2 **IT IS ORDERED** Defendants shall come into compliance regarding every
3 Performance Measure and location identified above no later than **March 1, 2020**.

4 **IT IS FURTHER ORDERED** that no later than **June 15, 2020**, Defendants shall
5 show cause as to why the Court should not impose a civil contempt sanction of \$100,000
6 per Performance Measure per complex.

7 Dated this 31st day of January, 2020.

8
9
10
11 

12 Honorable Roslyn O. Silver
13 Senior United States District Judge
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Order to Show Cause will be addressed in a subsequent order.