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Attorneys for **Defendants Joseph M. Arpaio and  
Maricopa County Sheriff's Office**

**IN THE UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF ARIZONA**

Manuel de Jesus Ortega Melendres, et al.	)	NO. CV07-02513-PHX-GMS
	)	
Plaintiffs,	)	<b>DEFENDANTS JOSEPH M.</b>
	)	<b>ARPAIO AND MARICOPA</b>
vs.	)	<b>COUNTY SHERIFF'S OFFICE'S</b>
	)	<b>OBJECTION TO PROCEDURE</b>
Joseph M. Arpaio, et al.,	)	<b>SET FORTH BY COURT</b>
	)	
Defendants.	)	

Defendants object to the procedure set forth in the Court's Amended Notice re Document Request by the U.S. Department of Justice (Doc. 1134).

**I. THE COURT'S AUTHORITY TO ISSUE ORDERS IS STAYED.**

On May 22, 2015, Defendants filed a Motion for Recusal or Disqualification. (Doc. 1117). During a status conference immediately following the filing, the Judge acknowledged that the proceedings must be stayed until the issues in the Motion were ruled upon. (Doc. 1130, p. 10). Further Plaintiffs' counsel agreed that "a stay in the proceedings is appropriate while this motion is adjudicated". (Doc. 1130, p. 10:13-15). Following the conference, the Judge issued an Order indicating that "The court shall issue no further orders until the Motion is fully briefed and/or a ruling has been issued." (Doc. 1120). Despite staying the proceedings, on May 29, 2015, the

1 Court issued a Notice and Amended Notice (Docs. 1133 and 1134) directing  
2 procedures in the case. Due to the pending Motion, the Court exceeded its authority  
3 while the case is stayed.

4 **II. DEFENDANTS HAVE NOT SEEN THE REQUEST.**

5 The Court states that the Court-appointed Monitor “received a request” from  
6 the U.S. Department of Justice. (Doc. 1134). Defendants are forced to respond to a  
7 proposed procedure by the Court without the opportunity to review the request.  
8 Defendants are parties to this case. They should be afforded the ability to review  
9 the request and object or consent as appropriate.  
10

11 **III. THE COURT IS AWARE OF A POTENTIAL INTELLECTUAL AND PRIVATE  
PROPERTY CLAIM.**

12 On May 13, 2015, Dennis Montgomery filed his Supplemental Motion to  
13 Intervene, stating that the property in question (and now requested by the  
14 Department of Justice) is his property. (Doc. 1081). The Court is aware of this  
15 claim; therefore, at the least, Mr. Montgomery should be given the request and an  
16 opportunity to assert his property interest.  
17

18 **IV. A NON-PARTY DOES NOT HAVE AUTHORITY TO REQUEST THESE  
DOCUMENTS.**

19 The United States Department of Justice is not a party in this case. Without  
20 having seen the request for documents, it is unclear under what authority they  
21 assert a right to the documents.  
22

23 The monitors were provided with a copy of the documents and drive.  
24 However due to privacy concerns, the Court issued a protective order and before

1 their disclosure to others, the Court ordered the “monitor to coordinate with Ms.  
2 lafrate in terms of attempting to characterize the documents.” (Doc. 1086, pp.  
3 33:21-34:5). This task has not occurred; however, the Court now orders the  
4 documents disclosed to a non-party. Defendants object.

5 **V. CONCLUSION**

6 Based on the Court’s Amended Notice, undersigned counsel objects to the  
7 request and the procedure set forth. (Doc. 1134).

8 **DATED** this 29th day of May, 2015

9  
10 **IAFRATE & ASSOCIATES**

11  
12 By: s/Michele M. lafrate  
13 Michele M. lafrate  
14 Attorney for **Defendants Joseph M.**  
**Arpaio and Maricopa County Sheriff’s**  
**Office**

15  
16 NOTICE OF ELECTRONIC FILING AND CERTIFICATE OF SERVICE

17 I certify that on May 29, 2015, I electronically filed Defendants Joseph M.  
18 Arpaio and Maricopa County Sheriff’s Office’s Objection to Procedure Set Forth by  
19 Court, with the Clerk of the Court for filing and uploading to the CM/ECF system  
20 which will send notification of such filing to all parties of record.  
21

22  
23 By: s/Jill Laforanara  
24