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IN THE UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF ARIZONA

**CASE NO.: 2:07-CV-02513-GMS**

Manuel de Jesus Ortega Melendres, et al,

Plaintiffs,

vs.

Joseph M. Arpaio, et al.,

Defendants.

**DEFENDANT MARICOPA COUNTY,  
ARIZONA'S RESPONSE IN  
OPPOSITION TO MOTION FOR  
ADMISISON PRO HAC VICE OF  
LARRY KLAYMAN**

[Assigned to Judge G. Murray Snow]

Maricopa County respectfully opposes the pending motion for leave to appear *pro hac vice* on behalf of Confidential Informant Dennis Montgomery.

We begin with the Court's inquiry to Movant Mr. Klayman during the July 20 status conference:

. . . you need to explain to me now why any interest that Mr. Montgomery might have in such materials is in any way infringed by allowing the United States to review them under

1 seal to make sure that there are no secured documents that  
2 belong to the CIA in those materials.  
3 (*Id.* at page 52, lines 10-14). Mr. Klayman had no answer.

4 The County takes the Court's inquiry to the next logical step. Even assuming  
5 Confidential Informant Dennis Montgomery has any kind of property right, including any  
6 intellectual property right, in the subject materials, their use may be relevant in this  
7 matter but does not violate such rights under the applicable 9<sup>th</sup> Circuit "fair use"  
8 exception under copyright law. *See* 17 U.S.C. § 107 (establishing fair use exception);  
9 *Jartech, Inc. v. Clancy*, 666 F.2d 403 (9th Cir. 1982) (concluding municipality's use of  
10 copyrighted material during abatement action was within fair use exception); *see also*  
11 *Denison v. Larkin*, 64 F.Supp.3d 1127, 1133-34 (N.D. Ill. 2014) (collecting cases).

12 This case is already overlong, sufficiently lawyered, and extremely expensive to  
13 the taxpayers to whom the Board of Supervisors and County Management have duties of  
14 fiscal responsibility. Mr. Klayman and his client would add nothing but more expense to  
15 the resolution of the issues now before the Court.

16 Moreover, Movant Mr. Klayman's client, Confidential Informant Dennis  
17 Montgomery, cannot establish the cognizable legal interest that is essential to his  
18 intervention in this matter. Federal Rule of Civil Procedure 24(a)(2) requires the putative  
19 intervenor to demonstrate both "an interest relating to the property or transaction that is  
20 the subject of the action," and "that disposing of the action may as a practical matter  
21 impair or impede the movant's ability to protect its interest."

22 Here, as a threshold matter, Confidential Informant Dennis Montgomery  
23 disclaimed any interest in the property contained on Maricopa County Sheriff's Office  
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1 hard drives when he forwarded that information to the Sheriff's Office pursuant to his  
2 contractual relationship with that Office and as part of a criminal investigation.

3  
4 Further, assuming *arguendo* that Confidential Informant Dennis Montgomery has  
5 retained some intellectual property rights in the information contained on the hard drives,  
6 those rights do not afford him an opportunity to intervene in this case because that  
7 property is not the subject of these contempt proceedings or the underlying civil rights  
8 litigation and the disposition of these proceedings will not as a practical matter impair or  
9 impede his ability to protect that alleged interest.  
10

11 Accordingly, the Court should reject Mr. Klayman's efforts to appear in this  
12 matter.

13 DATED this 29<sup>th</sup> day of July, 2015.  
14

15  
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17

18  
19 By: /s/ Richard K. Walker  
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26

27 NOTICE OF ELECTRONIC FILING AND CERTIFICATE OF SERVICE  
28

29 I hereby certify that on July 29, 2015, I electronically filed the Defendant,  
30 Maricopa County, Arizona's Response in Opposition to Motion for Admission Pro Hac  
31

Vice of Larry Klayman, with the Clerk of the Court for filing and uploading to the CM/ECF system which will send notification of such filing to all parties of record.

/s/ Michelle Giordano

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