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9
 10 **UNITED STATES DISTRICT COURT**
 11 **DISTRICT OF ARIZONA**

12 United States of America,

13 Plaintiff,

14 v.

15 Maricopa County, Arizona; Maricopa County
 Sheriff's Office; and Joseph M. Arpaio, in his
 16 official capacity as Sheriff of Maricopa
 County, Arizona,

17 Defendants.

NO. CV12-00981-PHX-ROS

**Defendant Arpaio's Response to
 Maricopa County's Motion to Alter
 or Amend, or to Correct, the
 Judgment**

18
 19 Pursuant to this Court's Order [Doc. 411], Defendant Arpaio responds to
 20 Maricopa County's Motion to Alter or Amend, or to Correct, the Judgment ("Motion to
 21 Amend") as follows:

22 The United States waived its "non-Melendres" claims under Counts 1, 3 and
 23 5. This Court previously granted the United States partial summary judgment on Counts
 24 1, 3 and 5 based on a finding that portions of those claims had already been litigated and
 25 adjudicated in *Melendres v. Arpaio*, No. 2:07-CV-02513-GMS. [Doc. 379]. After this
 26 ruling, what remained for trial under Counts 1, 3 and 5 was any additional relief requested
 27 outside of the issues litigated in the *Melendres* case, should the United States seek
 28

1 additional relief.¹

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3 However, in the Parties Joint Statement Regarding Any Remaining Issues
4 for Trial, the United States' position was that "[n]o issues remain for trial" on any issue.
5 [Doc. 394 at 1:25]. The United States was clear that all six of its claims "have been
6 addressed either by the Court's June 15, 2015 Order granting summary judgment in favor
7 of the United States or by the parties' July 17, 2015 settlement agreements." Moreover,
8 the United States was clear that based on the Ninth Circuit ruling in *Melendres v. Arpaio*,
9 784 F.3d 1254, 1260 (9th Cir. 2015), it would "not offer any additional evidence of
10 discriminatory policing" for Counts 1, 3, and 5. [*Id.* at 3:1-2]. As such, the United States
11 clearly asserted that "it will seek relief only to the extent warranted by the Court's June
12 15, 2015 grant of summary judgment in favor of the United States on Claims One, Three,
13 and Five. **Therefore, no factual issues remain in dispute concerning those claims.**" [*Id.*
14 at 3:2-5 (emphasis added)].

15 Regarding the relief warranted by the Court's June 15, 2015 grant of
16 summary judgment, the United States also unequivocally asserted that proper relief would
17 be intervention in the *Melendres* case. After reaching a settlement of Counts 2, 4, and 6 of
18 the United States' Complaint, the United States filed a Motion to Stay [Doc. 395],
19 explicitly stating that, if intervention were granted in *Melendres*, it would not pursue any
20 remedies for its discriminatory policing claims under Counts 1, 3, and 5:

21 While the United States' discriminatory policing claims in this
22 action are broader than the issues decided in *Melendres*, in the
23 interest of judicial economy and to save the people of
24 Maricopa County the costs of further litigation, should the
25 *Melendres* Court grant the United States intervention, the
26 United States would enforce the already-existing injunction in
27 *Melendres* rather than pursue additional remedies in this
28 action for its discriminatory policing claims. **Further remedial
proceedings in this case, beyond enforcement of the
Settlement Agreement reached by the parties, would not be**

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27
28 ¹ As the Court specifically noted, "the United States' claims also include
allegations regarding discriminatory home raids, worksite raids, and non-motor vehicle
arrests and detentions, which are different in important respects from those presented in
Melendres." [Doc. 379 at 13].

1 *necessary.*

2 [Doc. 395 at 4:1-8 (emphasis added)]. This position was similarly reflected in the United
3 States' Motion to Intervene in *Melendres*:

4 In the interest of judicial economy and to spare the people of
5 Maricopa County the costs of further litigation, if this Court
6 grants this Motion to Intervene, *the United States will not*
7 *pursue any further relief in its parallel case beyond that*
8 *provided by the Settlement Agreements filed on July 17,*
9 *2015.*

10 [Doc. 1177 at 5:20-23 (emphasis added), *Melendres v. Arpaio*, No. 2:07-CV-02513-
11 GMS]. These statements amounted to a clear and unequivocal waiver of any right of the
12 United States to seek further remedies in this case, conditioned solely upon it being
13 granted a right to intervene in *Melendres* – which was relied upon by Defendant Arpaio
14 and Maricopa County when they did not oppose intervention in *Melendres*. [See Docs.
15 1217 & 1218, *Melendres v. Arpaio*, No. 2:07-CV-02513-GMS].

16 Accordingly, pursuant to the United States' waiver of any further claims
17 under Counts 1, 3, and 5 – other than those granted by this Court's Order regarding the
18 Motions for Summary Judgment – this Court properly granted final judgment on
19 Plaintiff's Claims in Counts 1, 3 and 5. [See Docs. 407, 409].

20 The Court should not have granted summary judgment on the non-
21 *Melendres* allegations under Counts 1, 3, and 5 when the United States had clearly waived
22 their right to seek remedies for the non-*Melendres* allegations under Counts 1, 3, and 5.
23 Defendant Arpaio, therefore, submits that the judgment entered by the Court is in error.
24 Summary judgment was not granted and should never have been granted on the non-
25 *Melendres* issues.

26 Accordingly, the judgment on Counts 1, 3, and 5 must be amended and
27 limited to the terms of the Court's Summary Judgment, and reflect the agreement of the
28 parties and the United States' express waiver of its right to seek remedies for any “non-
29 *Melendres*” allegations contained in Counts 1, 3 and 5. (*See Doc. 406.*)

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DATED this 5th day of October, 2015.

JONES, SKELTON & HOCHULI, P.L.C.

By /s/ John T. Masterson
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CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of October, 2015, I caused the foregoing document to be filed electronically with the Clerk of Court through the CM/ECF System for filing; and served on counsel of record via the Court's CM/ECF system.

/s/ Christine Miller