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IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF ARIZONA

United States of America,  
Plaintiff,  
v.  
Maricopa County, Arizona; and Joseph M.  
Arpaio, in his official capacity as Sheriff of  
Maricopa County, Arizona,  
Defendants.

No. 2:12-cv-00981-ROS

**SETTLEMENT AGREEMENT**

The parties to this Agreement, the United States of America, Joseph M. Arpaio, Sheriff of Maricopa County, and Maricopa County (collectively the "Parties"), enter into this Settlement Agreement ("Agreement") to resolve all claims related to worksite identity theft operations ("Worksite Operations") and claims relating to alleged retaliation ("Retaliation Claims") as set forth in, *inter alia*, the Second and Sixth Claims of the United States' Complaint in this action. The parties have reached a separate agreement that resolves the United States' Fourth Claim and that portion of any other claim addressing discrimination in MCSO jails. *See* Attachment A.

1 The Parties agree that this Agreement is in the best interests of the people of  
2 Maricopa County and the United States.

3 **I. DEFINITIONS**

4 The following terms and definitions shall apply to this Agreement:

5 1. "Agreement" means this Agreement.

6 2. "Business," as used in Paragraph 9, below, means any business,  
7 organization, or other enterprise that employs people, is engaged in business activities or  
8 charitable services, and is involved in the provision of goods or services, or both.

9 3. "Complaint" means the Complaint filed in United States v. Maricopa  
10 County and Joseph M. Arpaio, in his official capacity as Sheriff of Maricopa County,  
11 Arizona, No. 2:12-cv-00981-ROS.

12 4. "Defendants" means Joseph M. Arpaio, Sheriff of Maricopa County,  
13 named in his official capacity; and Maricopa County.

14 5. "Effective Date of this Agreement" means the date on which this  
15 Agreement becomes effective pursuant to Paragraph 23, below.

16 6. "Identity theft," as used in Paragraph 9, below, means the crime of "taking  
17 identity of another person," as defined currently or prospectively by Arizona law, and as  
18 currently defined:

19 A person commits taking the identity of another person or entity if the person  
20 knowingly takes, purchases, manufactures, records, possesses or uses any personal  
21 identifying information or entity identifying information of another person or  
22 entity, including a real or fictitious person or entity, without the consent of that  
23 other person or entity, with the intent to obtain or use the other person's or entity's  
24 identity for any unlawful purpose or to cause loss to a person or entity whether or  
25 not the person or entity actually suffers any economic loss as a result of the  
offense, or with the intent to obtain or continue employment.

26 Ariz. Rev. Stat. § 13-2008(A).

27 7. "MCSO" means the Maricopa County Sheriff's Office.

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1 8. "United States" means the United States of America as represented by the  
2 United States Department of Justice's Civil Rights Division and its agents, employees,  
3 and consultants.

4 9. "Worksite Identity Theft Operation" means any pre-planned MCSO law  
5 enforcement operation at a place of business to execute a search warrant for evidence of,  
6 or for persons suspected of committing, identity theft or crimes incident thereto, such as  
7 forgery.

8 **II. SECOND CLAIM OF THE UNITED STATES' COMPLAINT AND**  
9 **ALLEGATIONS RE: WORKSITE OPERATIONS**

10 10. On December 18, 2014, the MCSO announced that it would no longer  
11 enforce State identity theft laws relating to obtaining or continuing employment, namely  
12 A.R.S. sections 13-2008(A) (employment provision) and 13-2009(A)(3), and that it  
13 would disband its Criminal Employment Unit.

14 11. On January 5, 2015, in the case of Puente Arizona v. Arpaio, No. 14-cv-  
15 01356 (D. Ariz.), the United States District Court for the District of Arizona entered a  
16 preliminary injunction enjoining the Maricopa County Sheriff from enforcing those  
17 statutory provisions that address actions committed with the intent to obtain or continue  
18 employment.

19 12. On January 19, 2015, the MCSO disbanded its Criminal Employment Unit,  
20 which was responsible for investigating cases of identity theft relating to obtaining or  
21 continuing employment, and for planning and carrying out Worksite Identity Theft  
22 Operations.

23 13. MCSO is not now engaged, currently planning to engage, or currently  
24 intending to engage in any Worksite Identity Theft Operations.

25 14. Before any Worksite Identity Theft Operation targeting three or more  
26 suspects may occur after the Effective Date of this Agreement:

- 27 a. Defendant Arpaio shall cause the MCSO to first establish a set of  
28 written policies or protocols to ensure that subsequent Worksite Identity

1 Theft Operations are conducted in compliance with all applicable laws  
2 and the United States Constitution; and

3 b. Defendant Arpaio will provide Plaintiff United States with draft policies  
4 and protocols regarding Worksite Identity Theft Operations, as  
5 described above, before MCSO finalizes them, and MCSO will consider  
6 in good faith any comments, suggestions, objections, and  
7 recommendations from the United States regarding those policies and  
8 protocols. Once MCSO finalizes policies and protocols regarding  
9 Worksite Identity Theft Operations, as described above, the MCSO shall  
10 ensure that all personnel participating in any subsequent Worksite  
11 Identity Theft Operations are advised of the applicable policies and  
12 protocols and MCSO will take reasonable measures designed to ensure  
13 that all MCSO personnel comply with such policies, and protocols in  
14 carrying out any Worksite Identity Theft Operations.

15 15. If a Worksite Identity Theft Operation occurs after the Effective Date of  
16 this Agreement, it must comply with all applicable laws, and the United States  
17 Constitution.

18 16. If a Worksite Identity Theft Operation occurs after the Effective Date of  
19 this Settlement Agreement, MCSO shall timely grant reasonable requests by the United  
20 States for information related to any such operation so that the United States may  
21 determine whether such operation was conducted consistent with Federal law and the  
22 United States Constitution. Such information shall include documents, data, and records,  
23 including any investigative reports and supplemental reports and any video or audio  
24 recordings relating to such operation.

25 17. The United States may bring a new civil action within two (2) years of the  
26 Effective Date of this Agreement seeking relief for alleged violations of federal law  
27 relating to any Worksite Identity Theft Operations that occurred prior to the Effective  
28 Date of this Agreement, but the United States may bring such a civil action only if: (a) a

1 Worksite Identity Theft Operation, as defined in Paragraph 9 of this Agreement, occurs  
2 after the Effective Date of this Agreement; (b) the United States first notifies the  
3 Defendants that the information it has obtained indicates that the Worksite Identity Theft  
4 Operation involves Fourth and Fourteenth Amendment violations that are consistent with  
5 the pattern or practice of Fourth or Fourteenth Amendment violations alleged in this case;  
6 (c) the United States attempts to confer with the Defendants to seek an agreement on  
7 specific actions MCSO can take to guard against constitutional violations in any future  
8 Worksite Identity Theft Operations; and (d) the Parties are unable, within 60 days of the  
9 United States' notification, to agree on such action or a Defendant fails to implement any  
10 such actions it has agreed to take. The United States may not bring such a civil action—  
11 an action seeking relief for alleged violations of Federal law relating to Worksite Identity  
12 Theft Operations that occurred prior to the Effective Date of this Agreement—after two  
13 (2) years of the Effective Date of this Agreement.

14 18. This Settlement Agreement does not affect the United States' authority to  
15 bring a civil action seeking relief for violations of federal law relating to Worksite  
16 Identity Theft Operations that occur after the Effective Date of this Agreement.

17 **III. SIXTH CLAIM OF THE UNITED STATES' COMPLAINT AND**  
18 **ALLEGATIONS RE: RETALIATION**

19 19. Within 30 days after the effective date of this Agreement, the Maricopa  
20 County Sheriff's Office (MCSO) will establish an official policy prohibiting retaliation  
21 against any individual for any individual's lawful expression of ideas in the exercise of  
22 the First Amendment right to the freedom of speech.

23 20. The Parties have agreed that the policy will read as follows:

24  
25 It is the policy of the Maricopa County Sheriff's Office to  
26 respect the First Amendment rights of all individuals. MCSO  
27 personnel will not take action against any individual in  
28 retaliation for any individual's lawful expression of opinions  
in the exercise of the First Amendment right to the freedom of  
speech.

1           21.    MCSO will notify all MSCO personnel of this policy through the issuance  
2 of a briefing board and in any other way MCSO determines to be appropriate. MCSO  
3 will take reasonable steps to ensure all future MCSO personnel are advised of this policy,  
4 consistent with MCSO practices to advise new personnel of existing MCSO policies.

5           22.    Through counsel, within 45 days after the Effective Date of this  
6 Agreement, Defendant Arpaio will provide the United States with an affidavit or sworn  
7 declaration by an MCSO employee with authority to speak on behalf of MCSO and  
8 Sheriff Arpaio confirming that MCSO has issued the policy and briefing board, and will  
9 provide copies of same to the United States.

10           **IV. EFFECTIVE DATE AND JURISDICTION**

11           23.    This Agreement shall become effective upon the signing of this Agreement  
12 by duly authorized representatives of Plaintiff United States, Defendant Sheriff Joseph  
13 Arpaio, Defendant Maricopa County, and by the Court. The Court will retain jurisdiction  
14 over this action for the purpose of enforcing compliance with the terms of this  
15 Agreement.

16           **V. SCOPE, IMPLEMENTATION AND ENFORCEMENT**

17           24.    The United States shall notify Defendants if it determines that a Defendant  
18 is not in compliance with the Agreement in any respect. The Parties shall first attempt to  
19 resolve any dispute informally by notification and conferral. If the Parties are unable to  
20 agree on a resolution of the dispute concerning the Defendant's compliance within 60  
21 days after initial conferral, the United States may, without further notice to Defendants,  
22 seek enforcement of this Agreement with the United States District Court for the District  
23 of Arizona (the "Court"), through any appropriate form of relief. Any motion to enforce  
24 this Agreement shall be brought within one year of the occurrence of any alleged  
25 violations.

26           25.    The Parties shall notify each other of any court or administrative challenge  
27 to this Agreement. In the event any provision of this Agreement is challenged in any  
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1 local or state court, removal to a federal court shall be sought by the Parties and transfer  
2 of venue to the United States District Court for the District of Arizona will be sought.

3 26. In response to requests for documents or data as provided herein, either  
4 Defendant may withhold from the United States any documents or data protected by the  
5 attorney-client privilege or the work product doctrine. Should a Defendant decline to  
6 provide the United States access to such documents or data based on attorney-client  
7 privilege and/or the work product doctrine, the Defendant shall inform the United States  
8 that it is withholding documents or data on this basis and shall provide the United States  
9 with a log describing the documents or data.

10 27. The Parties may make use of protective orders or agreements to ensure the  
11 confidentiality of any non-public information as appropriate and necessary. Other than as  
12 expressly provided herein, this Agreement shall not be deemed a waiver of any privilege  
13 or right a Defendant may assert, including the attorney-client communication privilege,  
14 attorney work product protections, and any other privilege, right, or protection recognized  
15 at common law or created by statute, rule or regulation, against any other person or entity  
16 with respect to the disclosure of any document.

17 **VI. ENTIRE AGREEMENT, SEVERABILITY, COSTS**

18 28. This Agreement constitutes the entire agreement between the Parties with  
19 regard to the Second and Sixth Claims, and any portions of other claims arising out of or  
20 relating to Worksite Operations or Retaliation Claims of the Complaint in this action, and  
21 it supersedes any and all prior representations and agreements, whether oral or written,  
22 between the Parties with regard to those claims. No such prior representations or  
23 agreements may be offered or considered to vary the terms of this Agreement, or to  
24 determine the meaning of any of its provisions.

25 29. In the event that any provision in this Agreement is declared invalid for any  
26 reason by a court of competent jurisdiction, said finding shall not affect the remaining  
27 provisions of this Agreement.

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30. Each party shall bear its own costs, fees, and expenses associated with the litigation concerning this action, United States v. Maricopa County, et al., No. 2:12-cv-981 (D. Ariz).

SIGNATURES OF THE PARTIES:

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Joseph M. Arpaio  
Maricopa County Sheriff

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Steve Chucri  
Chairman, Maricopa County  
Board of Supervisors

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Mark Kappelhoff, Deputy Assistant Attorney General  
U.S. Department of Justice, Civil Rights Division

SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_ 2015.

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Honorable Roslyn O. Silver  
Senior United States District Judge