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**WILENCHIK & BARTNESS**

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November 13, 2015

**VIA CERTIFIED MAIL**

Clerk of the Board of Supervisors, on behalf of  
Maricopa County Board of Supervisors  
Denny Barney, Steve Chucuri, Andy Kunasek, Clint L. Hickman, Steve Gallardo  
301 W. Jefferson, 10th Floor  
Phoenix AZ 85003

Maricopa County Sheriff Joseph M. Arpaio  
Maricopa County Sheriff’s Office  
Legal Liaison Section, Compliance Division  
550 West Jackson, Phoenix AZ 85003

Re: Notice of Claim by Marsha Hill and the Arizona Alliance for Animal Protection,  
formerly known as M.C.S.O.P.C.A. Posse or the “Animal Posse”

This letter serves as a formal Notice of Claim pursuant to A.R.S. § 12-821.01 that Marsha Hill (“Hill”) and the Alliance for Arizona Animal Protection, previously known as M.C.S.O.P.C.A. Posse, or “Animal Posse” (hereinafter referred to as the “PCA,” or “Animal Posse”) have claims against Sheriff Joseph Michael Arpaio and his deputies, as well as the County and the County Board of Supervisors, for abuse of process and/or malicious prosecution; false light publicity; tortious interference with prospective contractual relations; defamation; and intentional infliction of emotional distress, among other intentional torts and causes of action, including but not to limited to federal causes of action under 42 U.S.C. § 1983 or otherwise. Nothing in this letter is intended to in any way limit the facts to be presented in this matter, or to limit the parties to be named or legal theories, as we discover additional facts and conduct further investigation.

Arpaio and the Maricopa County Sheriff’s Office (“MCSO”) wrongfully instigated a retaliatory criminal investigation for theft without probable cause of Marsha Hill and the PCA, after the PCA refused a demand by the MCSO to give it a “blank check” for \$200,000. The PCA Board refused on the grounds that its funds must be used for the charitable purpose of helping animals, and not helping the MCSO with its budget problems. In typical retaliatory fashion, the MCSO then instigated an investigation for theft, publicized this investigation, and accused Ms. Hill and the PCA of stealing money. This investigation has caused the PCA to lose members and donations, and harmed the reputations of both Ms. Hill and the PCA. During the investigation, subpoenas were apparently issued for private information belonging to Marsha Hill and the PCA (including information about donors to a website operated by Ms. Hill, who were subsequently contacted by police, resulting in harm to her reputation). Perhaps worst of all, these actions have directly



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prevented the PCA and Ms. Hill from assisting animals in need. Out of pettiness, Arpaio and the MCSO have refused to allow the PCA to continue to help the animals in the MCSO's care.

**Factual Basis of Claim**

The PCA is a charitable 501(c)(3) corporation that was formed in 2003 with the essential purpose of promoting animal welfare in Maricopa County.<sup>1</sup> Marsha Hill became the President, or “Commander” of the PCA in September 2013.

For over a decade, the PCA fulfilled its purpose by working to help animals, which included contributing volunteers to support the Maricopa County Sheriff's Office Safe Haven for animals (“MASH”). The PCA also raised money for animals, and would use that money to pay for veterinary care at MASH. Staff at the MASH would regularly submit veterinary bills to the PCA for payment, and the PCA would then pay the veterinarian directly. The PCA followed this process in order to ensure that the funds which it had raised were used only for the charitable purpose of promoting animal welfare, consistent with its Articles of Incorporation. Because MASH was a part of the MCSO, most of the MASH's expenses—including the salaries for its MCSO staff—were supposed to be paid by the MCSO's general fund.

The Maricopa County Sheriff's Office is notorious for misusing funds. Between 2003 and 2011, the MCSO illegally spent nearly \$100 million from two restricted funds that were earmarked for jail construction and inmate services.<sup>2</sup> The Board of Supervisors accused the Sheriff's Office of intentionally concealing the misuse, remarking that “it is obvious that it wasn't meant to be shared with us.”<sup>3</sup>

Further, in around 2008, the MCSO seized PCA financial documents and a checkbook for the PCA bank account, against the objections of its then-Commander, Beverly Titus. With the

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<sup>1</sup> The Articles of Incorporation of M.C.S.O.P.C.A. Posse, Articles III and IV, stated that “the purpose for which this corporation is organized is to conduct any and all lawful affairs of which corporations may be incorporated... provided that the purpose or conduct shall qualify the corporation as a [501(c)(3) organization]...The corporation...initially intends to promote animal welfare in Maricopa County, to provide greater community education and involvement, and to provide essential manpower to the Animal Cruelty Investigation Division to assist in combating animal cruelty in Maricopa County.”

<sup>2</sup> See Formal Meeting Minutes of the April 13, 2011 Maricopa County Board of Supervisors meeting, pages 3-7.

<sup>3</sup> *Id.*, at page 5.



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unauthorized assistance of a former PCA Commander who was still a signatory on the account, the MCSO proceeded to write checks for things that were not approved by the PCA Board or Commander, and which would not have been—things like MCSO Christmas parties, feminine hygiene products, and food for inmates. These things did not advance the PCA’s cause of helping animals, and the diversion of PCA funds into non-charitable activities (which should instead been funded by the MCSO’s budget instead) endangered the PCA’s 501(c)(3) status. The PCA was forced to obtain a new bank account that would be under the sole control of the PCA Commander and Board, and to effectively abandon the old account. The MCSO clearly viewed the PCA’s funds as its own, and it had no qualms about illegally misusing them.

In early December 2013, MCSO executive staff, including Deputy Chief Brian Lee, were preparing for a meeting with the Board of Supervisors on December 19<sup>th</sup>, at which Sheriff Joseph Arpaio, Deputy Chief Gerald Sheridan, and Deputy Chief Scott Freeman would address the MCSO’s imminent budget problems for the 2015 financial year. The MCSO was looking at “serious and costly” issues<sup>4</sup> and “serious changes” to their budget, including an “overage” of \$40 million in expected costs, as the result of a court ruling requiring the MCSO to undergo extensive reforms in order to correct its practice of racial profiling.<sup>5</sup>

On December 17<sup>th</sup>, Deputy Chief Brian Lee sent a letter addressed to Marsha Hill at the PCA, remarking that “[d]uring a recent analysis and discussion about next year’s budget for the Maricopa County Sheriff’s Office, it is my observation that the MASH I and MASH II programs could greatly benefit from a substantial donation from the MCPA Posse to help offset costs that are currently being drawn from the current budget.” (See Exhibit “A” hereto.) “It is my belief that the sole existence of the MCPA Posse is to generate donations and funds to assist with Sheriff Arpaio’s initiative on fighting animal abuse in Maricopa County...I have been led to believe that the MCPA Posse regularly retains around \$250,000 in its account...Therefore, we are requesting that the Posse make a donation in the amount of \$200,000 to the program.” He concluded, “[t]he Sheriff’s Office would immediately use the funds to offset the biggest expense incurred by the MASH Unit which is veterinarian bills for horses, dogs, and cats that regularly seized by the Sheriff’s Animal Crime’s [sic] Investigations Unit.”

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<sup>4</sup> See Formal Meeting Minutes of the December 19<sup>th</sup>, 2013 Maricopa County Board of Supervisors meeting, pages 8 - 12.

<sup>5</sup> *Id.*



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The PCA had been asked to approve, and had paid, a total of approximately \$30,000 of veterinary bills over the 2014 year<sup>6</sup>—and so it seemed unlikely that there was an “immediate” need for \$200,000 to pay veterinary bills, or that the money would be “immediately” used for that purpose. Rather, it was obvious that the MCSO intended to “raid” PCA funds in order to deal with its imminent budget problems, and that it wanted a “blank check” for that purpose.

The Board of the PCA—consisting of Sherry Celine, Carol Treska, Diane Carter, Dave Dommel, Valerie Rogers, Scott Powelson, Dave Guerrieri and Marshal Hill—deliberated at length on this “request,” before voting to decline to give the MCSO a “blank check.” On March 21, 2014, the attorney for the PCA sent a letter to Deputy Chief Brian Lee informing him that “[a]lthough it may be your subjective belief that PCA’s ‘sole existence...is to generate donations and funds for Sheriff Arpaio,’ the corporation’s Articles of Incorporation and its application to the I.R.S. for 501[(c)](3) status state different purposes” (referring to the PCA’s purpose as generally promoting “animal welfare”; see Exhibit “B” hereto, and also footnote 1 above). “To be clear, the PCA Board would like to assist with the veterinarian bills mentioned in your letter; however, those bills need to be submitted to the Board for approval. Ultimately, the members of the PCA Board are held responsible for the use of its moneys and must be able to demonstrate its use was in compliance with its purposes and I.R.S. regulations. Your request for a \$200,000.00 donation, without any documentation, cannot be honored at this time.” In conclusion, the attorney wrote: “It is requested that you submit veterinarian bills to the Board, and the Board will review and consider each item in light of its purposes.”

What the PCA did not know was that Deputy Chief Lee’s “request” to the PCA, and his “observation” that the MCSO would “greatly benefit” from its money, was really a veiled threat.

Arpaio and the MCSO have a long history of pursuing criminal charges for retaliatory motives, and without probable cause. The number of victims is legion.<sup>7</sup>

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<sup>6</sup> The MCSO did request around an additional \$10,000 in veterinary bills to be paid by PCA in 2014, which the PCA approved (for a total of around \$40,000) – but then following the events detailed herein, the MCSO refused to allow the PCA to pay those bills, and claimed that it would pay them itself.

<sup>7</sup> E.g., former County Supervisor Mary Rose Wilcox, former Supervisor Don Stapley, former Superior Court Judges Gary Donahoe, Ken Fields, Barbara Mundell and Anna Baca, a collection of county employees, Dan Saban, Sandra Dowling, Michael Lcey and Jim Larkin. The United States of America even filed a Complaint against Arpaio and the MCSO, alleging “Defendants MCSO and Arpaio pursue a pattern or practice of illegal retaliation against their perceived critics by subjecting them to baseless criminal actions, unfounded civil lawsuits, or meritless administrative actions.” Arizona District Court case no. 2:12-cv-00981-LOA (Dkt. #1), page 2, lines 1-4.



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Based on nothing more than the Board's letter, the Sheriff's Office instigated a criminal investigation into Marsha Hill for theft with the Arizona Attorney General's Office, with the wrongful intent of pressuring Ms. Hill and the PCA to unconditionally turn over the charitable funds, and/or to punish them for having refused to do so.

In typical fashion, the Sheriff's Office was not shy about publicizing the investigation, releasing a statement that "Ms. Hill, an unpaid volunteer with the Sheriff's Office, was placed on admin leave as commander of the Sheriff's Animal Cruelty Posse due to an ongoing investigation currently with the Attorney General's office into how she has been running the 501-C3." The MCSO told people, including persons seeking to make donations to the PCA, that Ms. Hill "stole" the money. "She may be under the impression that that money is *her* money," stated Arpaio spokeswoman Lisa Allen. Of course, in reality the Sheriff seemed to think that this was *his* money, and that it was free to be used for dealing with the MCSO's "serious" budget problems—instead of being charitable contributions to a 501(c)(3) corporation, which were to be used for the purpose of animal welfare.

In what is perhaps the greatest tragedy of all, ever since the PCA denied the MCSO's demand for a "blank check," the MCSO has refused to submit veterinary bills or expenses to the PCA for reimbursement, or to allow the PCA to assist the MASH unit. The MCSO continues to underfund the MASH unit, and the animals continue to suffer for it.

In around September 2014, the investigator for the Attorney General's Office sent out emails to persons who it believed had donated to the PCA,<sup>8</sup> stating that "there is evidence suggesting that the owners/operators of [a website soliciting donations for the PCA] are not using the donations as represented," and that "[t]his investigation suggests that your money was not used as you might have believed it would be." Of course, nothing had genuinely "suggested" that, other than the MCSO saying it was so. And to the extent that people who donated to the PCA expected their money to go to the MASH unit, but it was not going to the MASH unit, only the MCSO was (and is) to blame for it.

The Attorney General Office's investigation has apparently continued as recently as summer 2015, with pitiable results. On around April 28<sup>th</sup>, 2015, the investigator left a lengthy voicemail suggesting a serious investigation of misconduct, on a phone belonging to the teenage daughter of a Board member. The investigator has expressed his "concern" that donations to the PCA were illegally "withheld" from the MCSO, when in fact the MCSO had no legal right to those funds

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<sup>8</sup> The investigator apparently obtained their information via a subpoena to "Paypal."



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whatsoever. The PCA has done nothing but try to be an effective steward of those funds – and in fact, to protect the funds from misuse by the MCSO.

As a result of Arpaio and the MCSO's efforts, the PCA has lost members in droves, and its contributions have dwindled. Further, Ms. Hill suffers under the stigma of being accused of stealing funds and of being under a criminal investigation, which was instigated and has persisted with absolutely no rightful basis whatsoever, further causing her emotional distress and harm to her reputation.

**Specific Settlement Amount**

The final amount of damages is uncertain and continues to develop as the Defendants' actions continue to cause harm. Such damages will ultimately be established by and decided upon by a jury. However, the Notice of Claim statute (A.R.S. § 12-821.01(A)) requires that the AAAP and Marsha Hill presently state a specific amount for which their claims can be settled. At this time, the PCA's claims can be settled for \$500,000, representing an amount sufficient to compensate it for lost donations, volunteers, and damage to its reputation. Marsha Hill's claims can be settled for \$500,000, representing compensation for damage to her reputation and emotional distress.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J. Wilenchik', with a stylized flourish at the end.

John ("Jack") D. Wilenchik

Attachments:

Exhibit "A," December 17<sup>th</sup> Letter from Brian Lee to PCA

Exhibit "B," March 21, 2014 Response Letter from PCA counsel to Brian Lee

# EXHIBIT A





# MARICOPA COUNTY SHERIFF'S OFFICE

JOSEPH M. ARPAIO  
SHERIFF



December 17, 2013

Commander Marsha Hill  
MPCA Posse  
345 East Thurber Road  
Wickenburg, AZ 85390

Commander Hill,

During a recent analysis and discussion about next year's budget for the Maricopa County Sheriff's Office, it is my observation that the MASH I and MASH II programs could greatly benefit from a substantial donation from the MPCA Posse to help offset costs that are currently being drawn from the current budget.

*what is coming from your budget*

It is my belief that the sole existence of the MPCA Posse is to generate donations and funds to assist with Sheriff Arpaio's initiative on fighting animal abuse in Maricopa County. It am certain that you will agree with me that the funds raised would be better served to pay for current operations rather than to reside in the Posse's bank account. This is also the wish of the many donors to the program as well.

I have been led to believe that the MCPA Posse regularly retains around \$250,000 in its account, in accordance with federal 501 (c)(3) guidelines. Therefore, we are requesting that the Posse make a donation in the amount of \$200,000 to the program. The Sheriff's Office would immediately use the funds to offset the biggest expense incurred by the MASH Unit which is veterinarian bills for horses, dogs, and cats that are regularly seized by the Sheriff's Animal Crime's Investigations Unit.

I look forward to hearing back from you on this matter so that we may be able to put your Posse's efforts and funds to their intended use, to help fight animal abuse.

Sincerely,

*BCL*

Deputy Chief Brian Lee  
Maricopa County Sheriff's Office

*Info from Dave G*

*rec'd 12-27-13*

# EXHIBIT B



LAW OFFICE OF DALE NORRIS, LLC

517 WEST MONTE VISTA ROAD  
PHOENIX, ARIZONA 85003  
OFFICE (602) 307-5627  
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DALE F. NORRIS  
E-MAIL: NORRISLAW@COX.NET

March 21, 2014

Brian Lee, Deputy Chief  
Maricopa County Sheriff's Office  
550 West Jackson Street  
Phoenix, Arizona 85003

**RE: M.C.S.O.P.C.A. POSSE**

Dear Deputy Chief Lee,

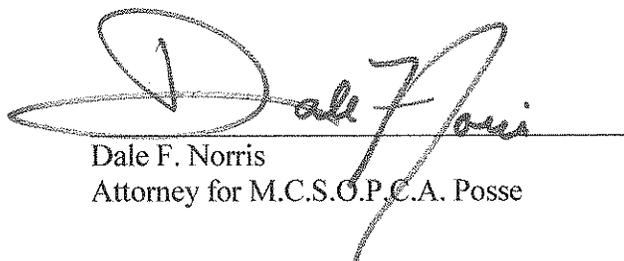
I am counsel for the Board of Directors of the M.C.S.O.P.C.A. Posse (PCA). PCA is a private corporation legally established under Arizona law. This letter is to follow-up on your correspondence to Marsha Hill dated December 17, 2013.

Although it may be your subjective belief that PCA's "sole existence... is to generate donations and funds for Sheriff Arpaio," the corporation's Articles of Incorporation and its application to the I.R.S. for 501c(3) status state different purposes. Although the animal cruelty efforts of the Maricopa County Sheriff's Office (MCSO) remain a high priority for PCA, it has other purposes and must comply with those as well as I.R.S. regulations.

To be clear, the PCA Board would like to assist with the veterinarian bills mentioned in your letter; however, those bills need to be submitted to the Board for approval. Ultimately, the members of the PCA Board are held responsible for the use of its moneys and must be able to demonstrate its use was in compliance with its purposes and I.R.S. regulations. Your request for a \$200,000.00 donation, without any documentation, cannot be honored at this time.

It is requested that you submit veterinarian bills to the Board, and the Board will review and consider each item in light of its purposes. If you have any questions about this matter or any other matters pertaining to PCA, contact me at my office. DO NOT contact any PCA Board member about these matters.

Very truly yours,



Dale F. Norris  
Attorney for M.C.S.O.P.C.A. Posse

Cc: PCA Board