

# **EXHIBIT A**

**In The Matter Of:**

*Melendres vs.*

*Arpaio*

---

*Michael Zullo*

*October 23, 2015*

*Video Deposition*

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Manuel de Jesus Ortega	)	
Melendres, et al.,	)	
	)	
Plaintiffs,	)	
	)	No. CV-07-2513-PHX-GMS
vs.	)	
	)	
Joseph M. Arpaio, et al.,	)	
	)	
Defendants.	)	
	)	

VIDEOTAPED DEPOSITION OF MICHAEL ZULLO

Phoenix, Arizona  
October 23, 2015  
9:00 a.m.

REPORTED BY:  
MARISA L. MONTINI, RPR  
Certified Reporter  
Certificate Number 50176

PREPARED FOR:  
ASCII/COPY

(Certified Copy)

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I N D E X

WITNESS		PAGE
MICHAEL ZULLO		
	Examination by Mr. Stanley	6

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1 THE VIDEOTAPED DEPOSITION OF MICHAEL ZULLO  
2 was taken at 9:00 a.m. on Friday, October 23, 2015, at the  
3 Offices of Legal Video Specialists, 3033 North Central  
4 Avenue, Suite 100, Phoenix, Arizona, before MARISA L.  
5 MONTINI, Certified Reporter, Certificate Number 50176, in  
6 and for the County of Maricopa, State of Arizona, pursuant  
7 to the Federal Rules of Civil Procedure.

8

9 COUNSEL APPEARING:

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8 Also Present:  
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10 Legal Video Specialists  
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1 Phoenix, Arizona  
2 October 23, 2015  
3 9:00 a.m.

4 THE VIDEOGRAPHER: This is the videotaped  
5 deposition of Michael Zullo -- Zullo taken by the  
6 plaintiffs in Cause Number CV-07-2513-PHX-GMS styled  
7 Manuel de Jesus Ortega Melendres, et al., versus Joseph M.  
8 Arpaio, et al., filed in the United States District Court  
9 for the District of Arizona.

10 Today is October 23rd, 2015, at  
11 9 o'clock a.m. Our location is 3033 North Central Avenue,  
12 Phoenix, Arizona. Marisa Montini is the certified  
13 shorthand reporter with Griffin and Associates, 2398 East  
14 Camelback Road, Phoenix, Arizona. Craig Onuschak is the  
15 certified legal video specialist with Legal Video  
16 Specialists, 3033 North Central Avenue, Phoenix, Arizona.

17 Counsel may state their name, firm and whom  
18 they represent, beginning with plaintiffs' counsel,  
19 please.

20 MR. STANLEY: Stanley Young and Michelle  
21 Morin, Covington and Burling, for plaintiffs.

22 MS. COE: Cynthia Coe, Department of  
23 Justice, representing the United States.

24 MR. MASTERSON: John Masterson, Sheriff  
25 Arpaio and the individual contemnor.

1 MR. WALKER: Richard Walker of Walker and  
2 Peskind appearing on behalf of Maricopa County.

3 MR. WOODS: Terrence B. Woods. I represent  
4 nonparties Stutz and Liddy.

5 THE VIDEOGRAPHER: Thank you.

6 You may swear the witness.

7

8 MICHAEL ZULLO,  
9 a witness herein, having been first duly sworn by the  
10 Certified Reporter to tell the truth and nothing but the  
11 truth, was examined and testified as follows:

12

13 EXAMINATION

14 BY MR. STANLEY:

15 Q. Good morning, Mr. Zullo.

16 A. Good morning.

17 Q. We introduced ourselves before the deposition,  
18 but my name is Stanley Young, and I'm one of the attorneys  
19 for the plaintiffs in the lawsuit we're taking in  
20 Melendres versus Arpaio.

21 Have you had your deposition taken before?

22 A. Yes.

23 Q. How many times?

24 A. Four or five.

25 Q. When was the last time you had your deposition



1 taken?

2 A. Two years ago.

3 Q. What kind of lawsuit was that in?

4 A. It was litigation over a hard money lending deal.

5 Q. Are you represented by counsel in this

6 deposition?

7 A. No, I'm not.

8 Q. I'll tell you that there was a status conference  
9 on October 6 where Joe Popolizio told the Court and the  
10 rest of us that he was representing you, at least in some  
11 capacity.

12 Is -- was that correct? Has he ever -- has  
13 the Jones, Skelton firm ever represented you?

14 MR. MASTERSON: Objection; form, foundation.

15 THE WITNESS: Could I -- could I just  
16 clarify something --

17 BY MR. STANLEY:

18 Q. Sure.

19 A. -- real quick?

20 I -- I don't want to waive any privilege by  
21 answering any questions. My understanding as of two days  
22 ago, there's some kind of cloud about what the County  
23 represents me as and what they don't, and up until two  
24 days ago, I thought I was going to have representation in  
25 this deposition, and it's come to light that I don't.

1 That's extremely concerning to me especially given the  
2 fact that this was included in a filing, which is more  
3 concerning to me than not having a lawyer, the bottom  
4 part.

5 Q. All right. Well, just so the record is clear, do  
6 you mind if we have this --

7 A. You can have it. I gave -- that's why I gave it  
8 you.

9 MR. STANLEY: Okay. Can we mark this as  
10 Exhibit Number 1, which is the page that Mr. Zullo just  
11 handed to me and was just referring to?

12 MR. WALKER: And pass it around so we all  
13 know what we're talking about.

14 MR. STANLEY: Sure. I'll do that before the  
15 court reporter marks it.

16 MR. WALKER: Do you want to see it?

17 MR. WOODS: Yeah. I want to take a glance,  
18 please.

19 THE VIDEOGRAPHER: Stan, would you like me  
20 to make copies of that?

21 MR. WOODS: That would be great if we could  
22 just copy it for everybody.

23 MR. STANLEY: Sure. Let's do that.

24 MR. WALKER: Why don't we get it marked  
25 first.

1 (Deposition Exhibit Number 2934 was marked  
2 for identification.)

3 MR. STANLEY: Maybe we can get the copies  
4 made later since I don't plan to ask him questions about  
5 that.

6 BY MR. STANLEY:

7 Q. Mr. Zullo, was it your understanding, prior to  
8 two days ago, that the Jones, Skelton firm was  
9 representing you and would represent you in this  
10 deposition?

11 A. My understanding was they were representing me in  
12 the deposition. I later learned it was in a very limited  
13 capacity, if it even exists at all.

14 Q. Are you making efforts now to obtain another  
15 attorney to represent you?

16 A. I'm flying out tomorrow morning to go -- he's  
17 interviewing me, actually, to see if he's willing to take  
18 this thing on.

19 Q. Well, I do have a number of questions that I'm  
20 going to ask you, and you are under a subpoena, and  
21 Mr. Masterson is here. I don't know whether he has  
22 anything that he wants to say about this, but we are in  
23 the middle of a court proceeding where the timing of your  
24 deposition is actually a sensitive issue and it will  
25 create a delay for the Court if we -- if we don't go

1 forward.

2 Are you willing to go forward and answer  
3 questions today?

4 A. I'm not, sir, and I'm not trying to be an  
5 obstructionist. This isn't something that I had planned  
6 to do. When this came to light, this -- when I -- this  
7 was actually done by me the day I received this, and I  
8 advised Mr. Popolizio that this really troubled me. My  
9 position is this is an accusation of criminal wrongdoing  
10 and a civil process is being used in light of probable  
11 cause. I have an issue with this, and this was supposed  
12 to have been addressed at some point and something  
13 happened and it never was. I -- I'm not going to answer a  
14 question. I mean, I don't want to sit here and go, "I'm  
15 going to invoke Fifth" because I don't -- it's not that I  
16 don't want to cooperate. I can't cooperate under this, so  
17 I guess for all intents and purposes, I'm invoking the  
18 Fifth because I'm not going to subject myself to  
19 questioning with this kind of intention, this already in  
20 the mind-set of a judge. I can't do that. I -- I can't  
21 do that, and that's what that reflects. This states the  
22 Court. That's the judge. It doesn't matter what you guys  
23 think. It matters what he thinks.

24 MS. COE: Excuse me. Would it be possible  
25 to get the copies of the exhibit passed around before we

1 go further?

2 MR. STANLEY: Yeah, we can do that. I'll  
3 just state that --

4 MR. MASTERSON: I'm not sure we're going  
5 further, but we'll see.

6 MS. COE: I know, but I haven't read it yet.

7 THE WITNESS: It's the footnote, sir, is the  
8 troubling part of it.

9 BY MR. STANLEY:

10 Q. And I'll just clarify for you, in case it's not  
11 clear to you, Mr. Zullo, I believe the footnote is  
12 actually a brief that our --

13 A. Yes.

14 Q. That we filed.

15 A. Yeah, it is.

16 Q. You know that. Okay.

17 MR. STANLEY: So why don't we -- why don't  
18 we wait on a copy, then, if that's okay --

19 MS. COE: Okay.

20 MR. STANLEY: -- Ms. Coe.

21 MS. COE: All right.

22 THE WITNESS: Well, ma'am -- she's the DOJ.  
23 I'd like her to at least read it.

24 MS. COE: I can just read it if you pass --

25 MR. STANLEY: Please. Oh sure.

1 MS. COE: -- it down and give me a minute.

2 MR. STANLEY: Yeah.

3 MS. COE: I handed it over thinking I was  
4 going to get a copy back.

5 MR. WALKER: What's the exhibit number?

6 THE COURT REPORTER: 2934.

7 MR. WALKER: Thanks.

8 BY MR. STANLEY:

9 Q. Well, Mr. Zullo, when I refer in this deposition  
10 to the Seattle investigation, I'll be referring to some  
11 work that you did with Dennis Montgomery, and at various  
12 times, Brian Mackiewicz and Travis Anglin were also  
13 involved in that.

14 Do you understand that?

15 A. I do, sir, but I don't want to answer any  
16 questions.

17 Q. Did Sheriff Arpaio ask you to work on the Seattle  
18 investigation in order to look at issues relating to  
19 Judge Snow?

20 A. Sir, I just --

21 MR. MASTERSON: Form.

22 THE WITNESS: -- told you I don't want to  
23 answer any questions without an attorney here.

24 BY MR. STANLEY:

25 Q. Well -- and I understand your situation as you've

1 explained it. This deposition was set up earlier. It's  
2 certainly not our fault that you're in the situation that  
3 you're in.

4 A. Uh-huh.

5 MR. STANLEY: And I don't know whether,  
6 Mr. Masterson, you have anything to say on this issue.  
7 It's obviously put us in a difficult --

8 MR. MASTERSON: Well, to some extent -- to  
9 some extent it is your fault because it's your document  
10 that's accusing him, at least in his opinion, of -- of  
11 crimes. So nobody else in this room is accusing him of  
12 crimes except you, at least in his opinion.

13 MR. STANLEY: That is his opinion.

14 MR. MASTERSON: I don't represent him beyond  
15 the extent of preserving the privilege for my client,  
16 Sheriff Arpaio. So my conversations with Mr. Zullo, of  
17 course, are protected as attorney-client privilege, and  
18 his communications with Mr. Popolizio are protected as  
19 attorney-client privilege, but we don't represent him  
20 civilly or more specifically in this case, and taking into  
21 consideration his concerns, we do not represent him  
22 criminally. And that seems to be his primary concern here  
23 is that he has expressed Fourth Amendment, Fifth Amendment  
24 and other due process concerns about this proceeding that  
25 he wishes to have counsel for.

1           So I'm not going to advise him, but those  
2           are the concerns he's expressed, and they seem to have  
3           been raised in connection with the document which we're  
4           going to have an as exhibit to this deposition. So I  
5           don't have any advice for him other than I do understand  
6           the concerns he has expressed.

7           MR. STANLEY: Yeah. Well, I guess my  
8           concern is with respect to the schedule in this case is  
9           that if there had been an issue with respect to his  
10          representation, it would have been raised prior to two  
11          days ago so we could actually have his deposition and --  
12          and proceed with the Court's hearing. So I guess I'm  
13          going to register some concern over the fact that, as  
14          Mr. Zullo has described, this issue as to his  
15          representation did not arise until two days ago, and we  
16          had a hearing about this -- or status conference,  
17          telephone conference, with the Court on October 6, and  
18          this schedule in timing was laid out. So I am concerned  
19          that we're going to have an interruption here or a  
20          disruption to the Court's schedule that could have been  
21          avoided if these things had been addressed earlier.

22          MR. MASTERSON: We could -- I wish we could  
23          avoid a lot of things in this case, but we haven't been  
24          able to do that. This is yet another one.

25          ///



1 BY MR. STANLEY:

2 Q. Well, my last question, Mr. Zullo, was whether --  
3 and I may reword it a little here -- Sheriff Arpaio had  
4 asked you to look into Judge Snow in the course of the  
5 Seattle investigation. Are you refusing to answer that  
6 question?

7 A. I don't want to waive any privilege answering any  
8 question, and I know that's something that you guys do.  
9 You try to get me to answer a question and then you claim  
10 I waived my privilege. I don't want to waive my  
11 privilege. I'm sympathetic to the Court's calendar, but  
12 quite frankly, the Court's calendar doesn't trump my  
13 constitutional rights. That document is bothering me  
14 since the day I saw it. I've raised concerns over that  
15 document. I thought I was going to have counsel here. I  
16 don't have counsel. I don't have counsel on any level. I  
17 don't know what the ruse is with the County covering.  
18 When I wanted to get counsel earlier, I was told if I got  
19 counsel, the County wouldn't cover me. It's just so  
20 confusing. I don't think it make -- it doesn't make any  
21 logical sense to me. So I'm sympathetic to that. I'm not  
22 here because I don't want to cooperate. I'm just not  
23 going to answer a question and waive my privilege. If  
24 you're answering -- if you're asking me one question with  
25 the understanding I'm not waiving any privilege, I have no

1 objection to answering one question for you, but I'm not  
2 waiving my Fifth Amendment privileges.

3 BY MR. STANLEY:

4 Q. Well, let me explore this a little bit to see  
5 what you're comfortable answering and what you're not  
6 comfortable answering, and it may well be that after you  
7 obtain counsel, we'll have to resume the deposition.

8 A. Oh, absolutely. Sure. Whatever.

9 MR. WALKER: With respect, Stan, I think I  
10 have to raise an ethical question. This individual has  
11 stated that he's not represented by counsel. He doesn't  
12 want to answer any questions until he has the benefit of  
13 advice of counsel, and I think to press him to answer  
14 questions under those circumstances raises a significant  
15 ethical issue.

16 MR. MASTERSON: I think the issues are -- I  
17 might have the rule wrong -- but somewhere around ER 4.3  
18 or 4.4 are probably good places to start with respect to  
19 unrepresented persons. I think Mr. Walker is correct.

20 MR. STANLEY: Well, Mr. Zullo -- and I  
21 understand that. Mr. Zullo, though, has answered a couple  
22 of questions here this morning, so I think I'm entitled to  
23 determine what kinds of questions he's willing to answer  
24 and what kinds of questions he's not willing to answer,  
25 and since we're here and in light of the schedule, I think

1 I would be remiss if I didn't do that.

2 BY MR. STANLEY:

3 Q. Mr. Zullo, I certainly understand your reluctance  
4 or unwillingness to answer questions without having  
5 counsel, and I think, depending on what happens -- well, I  
6 think we are going to have to schedule another session of  
7 this deposition, but I do want to, since we're here, make  
8 sure that we test or find out the limits of -- of your  
9 unwillingness, and I'm going to do that by showing you a  
10 document which was previously marked as Exhibit 2256.  
11 It's an e-mail dated June 29, 2014.

12 A. Mr. Young, can I ask you, are you with Covington  
13 or the ACLU?

14 Q. I'm at Covington and Burling, the law firm.

15 A. Maybe I should call the ACLU for counsel. I  
16 mean, you guys are trampling the hell out of me here and  
17 your client is the defender of civil rights. So you're  
18 asking me to look at documents. I'm telling you again,  
19 now I'm going to tell you for the last time, I am not  
20 answering any questions without counsel present.

21 Q. All right. Well, let me just ask you this  
22 question to test that.

23 Is Exhibit 2256 an e-mail that you received  
24 from Mr. Montgomery on June 29, 20 --

25 A. I'm not going to answer. I'm not going to look

1 at the document. I want my lawyer. I need a lawyer.

2 Q. All right. Well, it's helpful for me to know  
3 that that's what you're going to do.

4 If -- am I correct, then, that if I show you  
5 any document in this deposition, you will not look at it  
6 and you won't answer questions about it?

7 A. Mr. Young, you continually try to circumvent my  
8 privilege. I keep telling you I want an attorney before I  
9 answer any questions, before I look at any document. I  
10 came here right up until two days ago prepared to sit here  
11 and do just that. Now we have a representation problem,  
12 which I'm sure whoever this attorney is going to be is  
13 going to raise an issue with the County. I can tell you  
14 that's coming. I don't know what else they're going to  
15 do. I don't know how long it's going to take. I'm not  
16 trying to stall you. I just want my rights protected.  
17 I'm not the one that accused a witness in a document of  
18 criminal activity because that's referring to me. I  
19 didn't do that. You did it.

20 Q. Okay. Well, that document, which is exhibit --  
21 whatever it is to this deposition --

22 THE COURT REPORTER: 2934.

23 BY MR. STANLEY:

24 Q. 2034 speaks for itself.

25 MR. MASTERSON: 2034?

1 MR. WOODS: 2934.

2 BY MR. STANLEY:

3 Q. 2934, excuse me. That document speaks for  
4 itself.

5 Have you been aware of that document since  
6 it was filed?

7 A. A couple days later I guess. Whenever I --  
8 whenever I got it. I don't remember when I got it. It  
9 was relatively soon after because I'm the one who  
10 highlighted it. I was like, "What the hell is this?"

11 Q. Sometime in June, then?

12 A. I would assume.

13 Q. All right. Well -- well, Mr. Zullo, I understand  
14 that this weekend you're going to talk to an attorney  
15 about representing you in this matter. I take it from  
16 what we said earlier, that once that's done, you are  
17 willing to reschedule a deposition time at which you can  
18 be advised by your attorney as to whether you should  
19 answer questions or not; is that right?

20 A. That's correct, sir.

21 MR. STANLEY: Okay. All right. Well, in  
22 light of that, I think we are going to suspend the  
23 deposition. Does everyone else agree that we can do that  
24 and then resume it at a later time?

25 MR. MASTERSON: I do.

1 MR. WALKER: I do, too.

2 MR. WOODS: Yes.

3 MS. COE: Yes.

4 MR. STANLEY: Okay. All right. Well,  
5 Mr. Zullo, thank you for your time this morning. I think  
6 it was necessary for us to clarify all of that, and it may  
7 be that we will -- and I'll talk to Mr. Masterson and  
8 Mr. Popolizio about this -- go to the Court to see what it  
9 wants us to do, but thank you very much for your time and  
10 apologies for the inconvenience.

11 THE WITNESS: I apologize, too. Thank you.

12 THE VIDEOGRAPHER: The time is 9:19 a.m.

13 This concludes the deposition with Media One.

14 (Whereupon, the proceedings were concluded  
15 at 9:19 a.m.)

16

17

MICHAEL ZULLO

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1 STATE OF ARIZONA )  
 ) ss.  
2 COUNTY OF MARICOPA )

3 BE IT KNOWN that the foregoing proceedings were  
4 taken before me; that the witness before testifying was  
5 duly sworn by me to testify to the whole truth; that the  
6 foregoing pages are a full, true, and accurate record of  
7 the proceedings, all done to the best of my skill and  
8 ability; that the proceedings were taken down by me in  
9 shorthand and thereafter reduced to print under my  
10 direction.

11 I CERTIFY that I am in no way related to any of  
12 the parties hereto, nor am I in any way interested in the  
13 outcome hereof.

- 14 [X] Review and signature was requested.
- 15 [ ] Review and signature was waived.
- 16 [ ] Review and signature not required.

17 I CERTIFY that I have complied with the ethical  
18 obligations set forth in ACJA 7-206(F)(3) and ACJA 7-206  
19 J(1)(g)(1) and (2).

20 Dated at Phoenix, Arizona, this 24th day of  
21 October, 2015.

22 \_\_\_\_\_  
23 Marisa L. Montini, RPR  
24 Certified Reporter  
25 Arizona CR No. 50176

\* \* \* \* \*

26 I CERTIFY that GRIFFIN & ASSOCIATES, LLC, has  
27 complied with the ethical obligations set forth in  
28 ACJA 7-206 (J)(1)(g)(1) through (6).

29 \_\_\_\_\_  
30 GRIFFIN & ASSOCIATES, LLC  
31 Registered Reporting Firm  
32 Arizona RRF No. R1005