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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Manuel de Jesus Ortega Melendres,
et al.,

Plaintiff(s),

v.

Joseph M. Arpaio, et al.,

Defendants(s).

CV-07-2513-PHX-GMS

**NOTICE OF SERVICE
OF SUBPOENA TO PRODUCE
DOCUMENTS, INFORMATION,
OR OBJECTS**

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1 TO DEFENDANTS AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that pursuant to Federal Rule of Civil Procedure
3 45(b)(1), Plaintiffs will serve the attached subpoena commanding production of
4 documents, information, or objects upon JONES, SKELTON & HOCHULI, P.L.C.
5 and Joseph J. Popolizio.

6
7 RESPECTFULLY SUBMITTED this 21st day of October, 2015.

8
9 By: /s/ Michelle L. Morin

10 Cecillia D. Wang (*Pro Hac Vice*)
11 Andre I. Segura (*Pro Hac Vice*)
12 ACLU Foundation
Immigrants' Rights Project

13 Daniel Pochoda
14 ACLU Foundation of Arizona

15 Anne Lai (*Pro Hac Vice*)

16 Stanley Young (*Pro Hac Vice*)
17 Tammy Albarran (*Pro Hac Vice*)
18 Michelle L. Morin (*Pro Hac Vice*)
19 Lauren E. Pedley (*Pro Hac Vice*)
20 Hyun S. Byun (*Pro Hac Vice*)
Priscilla G. Dodson (*Pro Hac Vice*)
Covington & Burling, LLP

21 Jorge M. Castillo (*Pro Hac Vice*)
22 Mexican American Legal Defense and
23 Educational Fund
24 *Attorneys for Plaintiffs*

CERTIFICATE OF SERVICE

I hereby certify that on October 21, 2015 I electronically transmitted the attached document to the Clerk's office using the CM/ECF System for filing and caused the attached document to be served via the CM/ECF System on all counsel of record.

/s/ Michelle L. Morin

UNITED STATES DISTRICT COURT

for the
District of Arizona

Manuel de Jesus Ortega Melendres, et al.

Plaintiff

v.

Joseph M. Arpaio, et al.,

Defendant

Civil Action No. 07-2513-PHX-GMS

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**To: JONES, SKELTON & HOCHULI, P.L.C. and Joseph J. Popolizio
2901 North Central Avenue, Suite 800, Phoenix, AZ 85012*(Name of person to whom this subpoena is directed)*

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

Documents received from Michael Zullo and withheld from production in the above-captioned litigation, as described in Exhibit A, Dkt. 1478, Notice of Partial Compliance with Subpoena Served on and Lack of Authority to Accomplish Additional Production From Michael Zullo, page 2 ("Undersigned defense counsel is in possession of additional material that Mr. Zullo has provided as being responsive to the subpoena.").

Place: jromanow@cov.com OR ACLU Foundation of Arizona,
3707 N. 7th Street, Suite 235, Phoenix, AZ 85014

Date and Time:

10/22/2015 4:00 pm

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 10/21/2015

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

s/ Michelle L. Morin

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____
Manuel de Jesus Ortega Melendres, et al. _____, who issues or requests this subpoena, are:

Michelle L Morin, Covington & Burling, 333 Twin Dolphin Dr, Ste 700, Redwood Shores, CA 94065, mmorin@cov.com

(650) 632-4700

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 07-2513-PHX-GMS

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

EXHIBIT A

John T. Masterson, Bar #007447
Joseph J. Popolizio, Bar #017434
Justin M. Ackerman, Bar #030726
JONES, SKELTON & HOCHULI, P.L.C.
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Phoenix, Arizona 85012
Telephone: (602) 263-1700
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jmasterson@jshfirm.com
jpopolizio@jshfirm.com
jackerman@jshfirm.com

Attorneys for Defendant Joseph M. Arpaio in
his official capacity as Sheriff of Maricopa
County, AZ

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Manuel de Jesus Ortega Melendres, et al.,

Plaintiff,

v.

Joseph M. Arpaio, et al.,

Defendant.

NO. CV 07-02513-PHX-GMS

**NOTICE OF PARTIAL
COMPLIANCE WITH SUBPOENA
SERVED ON AND LACK OF
AUTHORITY TO ACCOMPLISH
ADDITIONAL PRODUCTION
FROM MICHAEL ZULLO**

Counsel for Defendant Joseph M. Arpaio in his official capacity as Sheriff
of Maricopa County, Arizona, has received production from Mr. Michael Zullo that Mr.
Zullo has identified as responsive to Plaintiffs' subpoena served on Mr. Zullo. As ordered
by the Court, undersigned counsel for Sheriff Arpaio has reviewed this production for
privilege and work product and has accomplished a rolling production over the weekend.
Undersigned defense counsel provided Plaintiffs with four (4) batches of production by
Sunday evening consisting of three thousand six hundred forty-nine (3,649) pages of
documentation.

Undersigned defense counsel is in possession of additional material that Mr. Zullo has provided as being responsive to the subpoena. Defense counsel has conducted a review of this additional material, also. However, undersigned defense counsel is being prohibited by Mr. Zullo from producing any additional materials due to the Fourth Amendment, Fifth Amendment and due process protections that Mr. Zullo believes may apply to him and the production of these additional materials. Moreover, undersigned defense counsel is informed that Mr. Zullo is seeking counsel to represent him. Absent further order of the Court after consideration of the concerns/protections raised by Mr. Zullo, undersigned defense counsel is left with no choice but to withhold the production of these additional materials that may be responsive to the Zullo subpoena.

DATED this 20TH day of October, 2015.

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

By /s/ Joseph J. Popolizio
John T. Masterson
Joseph J. Popolizio
Justin M. Ackerman
2901 North Central Avenue, Suite 800
Phoenix, Arizona 85012
Attorneys for Defendant Joseph M. Arpaio
and the Maricopa County Sheriff's Office

CERTIFICATE OF SERVICE

I hereby certify that on this 20th 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/ Donna Hamel