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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Manuel de Jesus Ortega Melendres, et al.,

Plaintiffs,

v.

Joseph M. Arpaio, et al.,

Defendants.

No. 2:07-cv-02513-PHX-GMS

No. 2:10-cv-01878-PHX-LOA

**UNITED STATES OF AMERICA'S
MOTION TO TRANSFER**

(No. 2:10-cv-01878 assigned to the
Honorable Lawrence O. Anderson)

Pursuant to Local Rule 42.1(a), plaintiff, the United States of America, moves to transfer the related case of *United States v. Maricopa County* (No. 2:10-cv-1878-PHX-LOA), filed on September 2, 2010, and pending before the Honorable Lawrence O.

1 Anderson, to this Court. *United States* involves matters similar to those presented in
2 *Melendres v. Arpaio* (No. 2:07-cv-02513-PHX-GMS), which is pending before this
3 Court.

4 Under Local Rule 42.1(a), this Court may exercise its discretion to transfer a
5 related case to a single judge where, among other factors, the Court determines that the
6 two cases “for any other reason would entail substantial duplication of labor if heard
7 by different Judges.” A motion to transfer “shall be filed in the case with the lowest
8 case number assigned to a District Judge who shall hear and decide the motion.”
9 LRCiv 42.1(a). Transfer is appropriate based on any one of the factors listed in Local
10 Rule 42.1(a). *See Gagan v. Estate of Sharar*, 2008 WL 2810978, at *3 (D. Ariz. July
11 18, 2008).

12 The plaintiff in *United States* seeks to enforce Title VI of the Civil Rights Act of
13 1964, the Title VI implementing regulations issued by the United States Department of
14 Justice, and related contractual assurances. The United States seeks declaratory and
15 injunctive relief against Maricopa County, Arizona; the Maricopa County Sheriff’s
16 Office (“MCSO”); and Sheriff Joseph M. Arpaio. The United States seeks to compel
17 the defendants to cooperate with its investigation of alleged national origin
18 discrimination by providing access to documents and other sources of information that
19 have been unlawfully withheld. *See* First Am. Complaint (filed Sept. 13, 2010, in
20 Case No. 2:10-cv-01878-PHX-LOA).

21 The plaintiffs in *Melendres* seek declaratory and injunctive relief against MCSO
22 and Sheriff Joseph M. Arpaio. The *Melendres* plaintiffs allege causes of action for
23 discriminatory police practices in violation of Title VI, the Fourth and Fourteenth
24 Amendments to the United States Constitution, and Article II § 8 of the Arizona
25 Constitution.

26 Transfer is proper because of the potential for substantial duplication of labor that
27 may be involved if *United States* and *Melendres* are heard by different Judges. This
28 Court is familiar with the extent of MCSO’s compliance with its discovery obligations

1 in *Melendres*, including ongoing disagreements between the *Melendres* parties
2 regarding the existence and production of relevant documents. *See, e.g.*, Doc. Nos.
3 261, 337, and 348 in Case No. 2:07-cv-02513-PHX-GMS. As indicated in the United
4 States' motion for summary judgment, filed today in *United States*, MCSO has
5 contended that its obligation to cooperate with the United States' investigation is
6 satisfied in part by documents already produced in *Melendres*. *See* Pl.'s Mem. Supp.
7 Summ. J. (filed Sept. 13, 2010, in Case No. 2:10-cv-01878-PHX-LOA). Although the
8 obligation to provide access to sources of information under Title VI is distinct from
9 obligations that a party in litigation has under Rules 26 to 37 of the Federal Rules of
10 Civil Procedure, this Court's familiarity with the *Melendres* record may assist in
11 determining the extent to which the *Melendres* production satisfies some portion of
12 MCSO's obligation to cooperate with the United States' Title VI investigation, if at all.
13 *See, e.g., Parra v. Bashas' Inc.*, 2009 WL 1024615, at *3-5 (D. Ariz. Apr. 15, 2009)
14 (granting a motion to transfer under Local Rule 42.1(a) where, among other reasons,
15 judicial economy would be served because of the Court's familiarity with documents
16 and information produced in the earlier-filed case).

17 Accordingly, the United States respectfully requests that the Court grant the Motion
18 to Transfer this case.

19
20 Dated: September 13, 2010

Respectfully submitted,

21 Thomas E. Perez
22 Assistant Attorney General

23 Dennis K. Burke
24 United States Attorney

25 /s/ Amin Aminfar

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on September 13, 2010, I electronically transmitted the
3 UNITED STATES' MOTION TO TRANSFER to the Clerk's Office using the CM/ECF
4 System for filing and transmitted a Notice of Electronic Filing to the following attorneys
5 who are CM/ECF registrants:

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