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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

United States of America,

Plaintiff,

v.

Maricopa County, Arizona; Maricopa County
Sheriff's Office; and Joseph M. Arpaio, in his
official capacity as Sheriff of Maricopa
County, Arizona,

Defendants.

No. 2:10-cv-01878-LOA

**PLAINTIFF'S OPPOSITION TO
MOTION FOR CONTINUANCE**

This lawsuit alleges unreasonable delay in complying with obligations imposed by Title VI of the Civil Rights Act of 1964. Yesterday, on the day they were required to answer Plaintiff's Amended Complaint, Defendants Maricopa County Sheriff's Office ("MCSO") and Sheriff Arpaio asked this Court to extend their deadline by an

1 additional three weeks. The United States opposes this request.

2 First, in a case that is based on unreasonable delay, further delay itself
3 undermines the rights that the United States seeks to vindicate. *Cf. Wash. Post v.*
4 *Dep't of Homeland Security*, 459 F. Supp. 2d 61, 74 (D.D.C. 2006) (holding in a FOIA
5 lawsuit that the “very nature of the right that plaintiff seeks to vindicate in this action –
6 expedited processing – depends on timeliness”). The United States has a
7 “congressionally mandated duty to investigate whether public programs receiving
8 federal funds are complying with Title VI.” *United States v. Phoenix Union High Sch.*
9 *Dist.*, 681 F.2d 1235, 1238 (9th Cir. 1982). The failure to comply with ordinary Court
10 deadlines imposed by the Federal Rules of Civil Procedure, *see* Fed. R. Civ. P.
11 15(a)(3), further impairs the United States’ ability to ensure that Defendants are not
12 using public funds for impermissible discrimination.

13 Second, publicly-reported comments contradict the assertions made in the Motion
14 for Continuance. Defendants MCSO and Arpaio state that their counsel are no longer
15 authorized to represent them, but Maricopa County officials have been quoted as
16 stating that counsel may continue to represent Defendants MCSO and Arpaio in this
17 matter. *See Joe Arpaio’s legal advisers fired by Supervisors*, Ariz. Republic, Sept. 23,
18 2010. Notably, counsel have not filed a motion to withdraw their appearances. If
19 counsel have not withdrawn and are authorized to seek a continuance, Defendants
20 MCSO and Arpaio should be required to timely file responsive pleadings as well.

21 Third, even if their counsel’s Legal Services Agreement was in fact terminated on
22 September 22, Defendants MCSO and Arpaio fail to explain why they waited until
23 5:49 p.m. local time on September 27 – the deadline for filing their responsive
24 pleading in this lawsuit – to advise the Plaintiff or this Court that they believed they
25 needed additional time. Nor have Defendants MCSO and Arpaio complied with Local
26 Civil Rule 7.3(b), which requires the party seeking an extension to state the position of
27 each of the other parties. Defendants MCSO and Arpaio never contacted the United
28 States regarding their request for an extension.

1 Finally, Defendants MCSO and Arpaio have had ample time to prepare their
2 responsive pleading. This lawsuit was initiated on September 2, 2010. The allegations
3 in the complaint were not a surprise to the Defendants, but rather have been the subject
4 of detailed discussions, meetings, and correspondence between the parties for over a
5 year. *See generally* Pl.'s Statement of Facts, Doc. No. 19. Defendants MCSO and
6 Arpaio have had sufficient time to answer the allegations raised in the Plaintiff's nine-
7 page amended complaint.

8 For these reasons, the United States respectfully requests that the Court deny the
9 Motion for Continuance.

10
11 Dated: September 28, 2010

Respectfully submitted,

12 Thomas E. Perez
13 Assistant Attorney General

14 Dennis K. Burke
15 United States Attorney

16 /s/ Amin Aminfar

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CERTIFICATE OF SERVICE

I hereby certify that on September 28, 2010, I electronically transmitted the attached document to the Clerk’s Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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