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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF ARIZONA**

8 United States of America,
9
10 Plaintiff,

11 vs.

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

14 Defendants.

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

**SEPARATE ANSWER OF MARICOPA
COUNTY, ARIZONA TO
PLAINTIFF'S FIRST AMENDED
COMPLAINT**

(Hon. Lawrence O. Anderson)

16 Defendant Maricopa County, Arizona (hereinafter, "Maricopa County" or the
17 "Board"), through counsel undersigned, for their Answer to Plaintiff's First Amended
18 Complaint (hereinafter, "FAC") admit, deny and alleges as follows. Any allegation not
19 expressly admitted herein is denied.

20 **INTRODUCTION**

21 1. In response to Paragraph 1 of the FAC, Maricopa County states that the
22 allegations contained in the FAC speak for themselves.

23 2. In response to Paragraph 2 of the FAC, Maricopa County states that federal
24 law, regulations and the underlying contractual obligations all speak for themselves.

25 3. In response to Paragraph 3 of the FAC, Maricopa County denies the
26 allegations of this paragraph generally and specifically denies that Plaintiff United States
27 ("U.S.") has directed efforts since March 2009 to secure voluntary compliance of the Board.
28 Maricopa County affirmatively avers that since learning of the Maricopa County Sheriff's

1 Office's (hereinafter, "MCSO") noncompliance with the underlying requests and the U.S.
2 declared its intent to sue, Maricopa County has directed MCSO to promptly comply with
3 the requests of the U.S. and has offered the U.S. to assist by way of invoking the Board's
4 subpoena power pursuant to A.R.S. §11-218.

5 4. In response to Paragraph 4 of the FAC, Maricopa County states that no factual
6 allegation is made requiring a response. To the extent that a response is deemed necessary,
7 this paragraph is denied.

8 DEFENDANTS

9 5. In response to Paragraph 5 of the FAC, Maricopa County admits the
10 allegations of this paragraph.

11 6. In response to Paragraph 6 of the FAC, Maricopa County states that under the
12 Arizona Constitution, the sheriff is a county officer whose duties are to be fixed by statute.
13 A.R.S. Const. Art. 12 §4. The County Sheriff is in charge of the county jail, serves process
14 and executes various law enforcement functions. A.R.S. §11-441. The Sheriff possesses no
15 fiscal oversight responsibility that supplants the Board's fiduciary duties. *See* A.R.S. §11-
16 444.

17 7. In response to Paragraph 7 of the FAC, Maricopa County admits that Sheriff
18 Arpaio is the duly elected Maricopa County Sheriff.

19 JURISDICTION AND VENUE

20 8. In response to Paragraph 8 of the FAC, proper jurisdiction is admitted.

21 9. In response to Paragraph 9 of the FAC, Maricopa County states that this
22 paragraph states a legal conclusion that requires no response.

23 10. In response to Paragraph 10 of the FAC, Maricopa County states the FAC
24 speaks for itself.

25 11. In response to Paragraph 11 of the FAC, Maricopa County admits that Venue
26 is proper in this Court.

FACTS

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2 12. In response to Paragraph 12 of the FAC, Maricopa County states that this
3 paragraph states legal conclusions that require no response. To the extent that a response is
4 deemed necessary, Maricopa County states that the legal authorities cited speak for
5 themselves.

6 13. In response to Paragraph 13 of the FAC, Maricopa County states that this
7 paragraph states legal conclusions that require no response. To the extent that a response is
8 deemed necessary, Maricopa County states that the legal authorities cited speak for
9 themselves.

10 14. In response to Paragraph 14 of the FAC, Maricopa County states that this
11 paragraph states legal conclusions that require no response. To the extent that a response is
12 deemed necessary, Maricopa County states that the legal authorities cited speak for
13 themselves. Maricopa County affirmatively alleges that until August, 2010, the U.S. chose
14 not to deal with the recipient.

15 15. In response to Paragraph 15 of the FAC, Maricopa County admits that it is a
16 recipient of federal financial assistance from DOJ.

17 16. In response to Paragraph 16 of the FAC, Maricopa County admits that it
18 received the listed grants.

19 17. In response to Paragraph 17 of the FAC, Maricopa County states that it has
20 provided funding from the grants described above to MCSO.

21 18. In response to Paragraph 18 of the FAC, Maricopa County admits that DOJ
22 made the described grant.

23 19. In response to Paragraph 18 of the FAC, Maricopa County admits the
24 allegations of this paragraph.

25 20. In response to Paragraph 20 of the FAC, Maricopa County states that the
26 conditions and contractual assurances at issue speak for themselves.

27 21. In response to Paragraph 21 of the FAC, Maricopa County admits the
28 allegations of this paragraph.

1 22. In response to Paragraph 22 of the FAC, Maricopa County states that it does
2 not possess adequate knowledge or information to reasonably admit or deny the allegations
3 of this paragraph; the U.S. chose not to deal with Maricopa County. Accordingly, the
4 allegations of this paragraph are deemed denied.

5 23. In response to Paragraph 23 of the FAC, Maricopa County denies that it
6 received notification on March 10, 2009 of the described investigation.

7 24. In response to Paragraph 24 of the FAC, Maricopa County denies that it
8 received the First Request on or about March 25, 2009 or that it was included in the alleged
9 communication between the U.S. and MCSO.

10 25. In response to Paragraph 25 of the FAC, Maricopa County denies that it met
11 with the U.S. in reference to this matter on April 30, 2009. Maricopa County further alleges
12 that it was not invited to participate in the meeting at issue.

13 26. In response to Paragraph 26 of the FAC, Maricopa County states that it does
14 not possess adequate knowledge or information to reasonably admit or deny the allegations
15 of this paragraph. Accordingly, the allegations of this paragraph are deemed denied.

16 27. In response to Paragraph 27 of the FAC, Maricopa County denies that the
17 U.S. sought additional information from the Board on the dates at issue.

18 28. In response to Paragraph 28 of the FAC, Maricopa County states that it does
19 not possess adequate knowledge or information to reasonably admit or deny the allegations
20 of this paragraph. Accordingly, the allegations of this paragraph are deemed denied.

21 29. In response to Paragraph 28 of the FAC, Maricopa County states that it was
22 not present for the conference call at issue. Accordingly, Maricopa County does not
23 possess adequate knowledge or information to reasonably admit or deny the allegations of
24 this paragraph. Accordingly, the allegations of this paragraph are deemed denied.

25 30. In response to Paragraph 30 of the FAC, Maricopa County states that it does
26 not possess adequate knowledge or information to reasonably admit or deny the allegations
27 of this paragraph. Accordingly, the allegations of this paragraph are deemed denied.
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1 31. In response to Paragraph 31 of the FAC, Maricopa County states that it does
2 not possess adequate knowledge or information to reasonably admit or deny the allegations
3 of this paragraph. Accordingly, the allegations of this paragraph are deemed denied.

4 32. In response to Paragraph 32 of the FAC, Maricopa County states that it does
5 not possess adequate knowledge or information to reasonably admit or deny the allegations
6 of this paragraph. Accordingly, the allegations of this paragraph are deemed denied.

7 33. In response to Paragraph 33 of the FAC, Maricopa County states that it does
8 not possess adequate knowledge or information to reasonably admit or deny the allegations
9 of this paragraph. Accordingly, the allegations of this paragraph are deemed denied.

10 34. In response to Paragraph 34 of the FAC, Maricopa County states that it does
11 not possess adequate knowledge or information to reasonably admit or deny the allegations
12 of this paragraph. Accordingly, the allegations of this paragraph are deemed denied.

13 35. In response to Paragraph 35 of the FAC, Maricopa County admits receiving a
14 written notification from the U.S., which speaks for itself.

15 36. In response to Paragraph 36 of the FAC, Maricopa County states that
16 MCSO's referenced correspondence speaks for itself.

17 37. In response to Paragraph 37 of the FAC, Maricopa County states that its
18 August 12, 2010 correspondence speaks for itself. Maricopa County admits that it directed
19 MCSO to comply with DOJ investigators. Maricopa County affirmatively alleges that the
20 U.S. chose not to deal with it concerning its investigation until this time and, therefore, has
21 waived the right to penalize Maricopa County pursuant to Title VI.

22 38. In response to Paragraph 28 of the FAC, Maricopa County states that
23 MCSO's response speaks for itself.

24 39. In response to Paragraph 39 of the FAC, Maricopa County generally admits
25 the allegations of this paragraph. Maricopa County specifically avers that the Sheriff is
26 responsible for the day-to-day operations of MCSO facilities and has control over MCSO
27 staff.

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1 40. In response to Paragraph 40 of the FAC, Maricopa County states that it does
2 not possess adequate knowledge or information to reasonably admit or deny the allegations
3 of this paragraph. Accordingly, the allegations of this paragraph are deemed denied.

4 41. In response to Paragraph 41 of the FAC, Maricopa County states that it does
5 not possess adequate knowledge or information to reasonably admit or deny the allegations
6 of this paragraph. Accordingly, the allegations of this paragraph are deemed denied.

7 42. In response to Paragraph 42 of the FAC, Maricopa County states that this
8 paragraph states a legal conclusion that requires no response.

9 43. In response to Paragraph 43 of the FAC, Maricopa County states that the
10 communication at issue speaks for itself.

11 **FIRST CLAIM FOR RELIEF:**
12 **DEFENDANTS' DENIAL OF ACCESS TO SOURCES OF**
13 **INFORMATION VIOLATES TITLE VI AND ITS IMPLEMENTING**
14 **REGULATIONS**

15 44. In response to Paragraph 44 of the FAC, Maricopa County states that no
16 factual allegation is made requiring a response. To the extent that a response is deemed
17 necessary, all responses above are incorporated herein by this reference.

18 45. In response to Paragraph 45 of the FAC, Maricopa County admits that it
19 receives federal financial assistance.

20 46. In response to Paragraph 46 of the FAC, Maricopa County denies that it has
21 denied any access to investigators. Maricopa County further alleges that Sheriff Arpaio is
22 in charge of the day-to-day operational issues of MCSO, its documents, personnel and
23 facilities.

24 47. In response to Paragraph 47 of the FAC, Maricopa County states that this
25 paragraph states a legal conclusion that requires no response, but affirmatively alleges that
26 it is not in violation of Title VI or its regulations.

27 **SECOND CLAIM FOR RELIEF:**
28 **DEFENDANTS' DENIAL OF ACCESS TO SOURCES OF**
INFORMATION VIOLATES THE TITLE VI ASSURANCES

1 48. In response to Paragraph 48 of the FAC, Maricopa County states that no
2 factual allegation is made requiring a response. To the extent that a response is deemed
3 necessary, all responses above are incorporated herein by this reference.

4 49. In response to Paragraph 49 of the FAC, Maricopa County states that federal
5 law, regulations and the underlying contractual obligations all speak for themselves.

6 50. In response to Paragraph 50 of the FAC, Maricopa County denies the
7 allegation that it has denied access to MCSO documents, facilities or other sources of
8 information. Maricopa County affirmatively avers that it does not directly control MCSO's
9 daily operations, personnel and facilities. Maricopa County affirmatively alleges that by
10 choosing not to involve Maricopa County in its lengthy dealings with MCSO, the U.S.
11 eliminated Maricopa County's ability to seek compliance from MCSO.

12 51. In response to Paragraph 51 of the FAC, Maricopa County states that this
13 paragraph states a legal conclusion that requires no response. To the extent that a response
14 is deemed necessary, Maricopa County denies the allegation that it has participated in any
15 denial of access in violation of Title VI assurances.

16 **PRAYER FOR RELIEF**

17 52. In response to Paragraph 52 of the FAC, Maricopa County states that this
18 paragraph states a legal conclusion that requires no response. Furthermore, Maricopa
19 County affirmatively avers that it has not denied any aspect of access sought by DOJ.

20 **AFFIRMATIVE DEFENSES**

21 Maricopa County incorporates herein all affirmative defenses contained in Rule 8
22 and 12, Federal Rules of Civil Procedure, that may apply but which are not currently
23 known. Maricopa County will amend the pleadings to reflect affirmative defenses that may
24 exist if discovery reveals the existence of the same.

25 WHEREFORE, having fully answered Plaintiff's Complaint, Maricopa County prays
26 for an Order:

27 A. Dismissing the Complaint against Maricopa County and finding that Plaintiff
28 take nothing thereby;

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- B. For recovery of the costs and attorney fees; and
- C. Such other and further relief as the Court may deem proper and just.

Dated this 6th day of October, 2010.

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on October 6, 2010, I electronically transmitted the foregoing
3 document to the U.S. District Court Clerk’s Office by using the CM/ECF System for filing
4 and transmittal of a Notice of Electronic Filing.

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