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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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Luigino’s International, Inc., a Florida corporation,

No. MC-10-103

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Plaintiff,

(No. 1:07-CV-1379-ODE, Northern District of Georgia, Atlanta Division)

11

vs.

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**ORDER**

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Miller International Foods, Inc., a Georgia corporation, and Jamir Miller, an individual,

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Defendants.

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This case arises on the arrest of Defendant Jamir Miller on Friday, October 1, 2010 by the United States Marshal Service pursuant to a civil arrest warrant in case No. 1:07-CV-1379-ODE issued in the United States District Court, Northern District of Georgia, Atlanta Division. This matter was assigned to the undersigned criminal duty Magistrate Judge as a matter of the District of Arizona’s usual and customary practice.

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**I. Background**

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On August 25, 2010, the Honorable Orinda D. Evans, the assigned United States District Judge, in case No. 1:07-CV-1379-ODE filed in the United States District Court, Northern District of Georgia, Atlanta Division, found, *inter alia*, that Defendant Jamir Miller, a resident of Paradise Valley, Arizona, was served personally with a subpoena to appear before a court reporter for his deposition on December 15, 2009 in Scottsdale, Arizona. (Doc. 98-1 in No. 1:07-CV-1379-ODE) Judge Evans further found that Mr. Miller

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1 failed to appear for the December 15, 2009 deposition and several other rescheduled  
2 depositions. (*Id.* at 1-2) Judge Evans determined that Mr. Miller “contumaciously refused  
3 to follow [the court’s] orders to submit to a deposition in this case [,]” ordered that the  
4 United States Marshal Service arrest Mr. Miller, and “that he be incarcerated until such time  
5 as he purges himself from contempt by appearing at a deposition, in jail or in prison, and by  
6 answering all proper questions put to him by counsel for Plaintiff.” (*Id.* at 3)

7           On Friday, October 1, 2010, a hearing was held in open court and  
8 electronically recorded. Plaintiff’s Florida counsel, David H. Simmons and Daniel J.  
9 O’Malley, were authorized to appear telephonically *pro hac vice* by the Court for this  
10 hearing only. Scottsdale lawyer Lyndon B. Steimel, counsel for Mr. Miller, also appeared  
11 telephonically. Mr. Steimel represented to the Court and counsel that earlier that day,  
12 October 1, 2010, a Chapter 7 voluntary bankruptcy petition was filed on behalf of Jamir  
13 Miller and Racquel Miller in the United States Bankruptcy Court, District of Arizona in case  
14 No. 2:10-bk-31807-CGC. The Court has independently confirmed the bankruptcy petition’s  
15 filing. The Trustee is Dina Anderson, 21001 N. Tatum Blvd., # 1630-608, Phoenix, AZ  
16 85050; phone number: (480) 304-8312.

17           By virtue of the automatic stay imposed pursuant to Title 11 U.S.C. § 362 with  
18 the filing of the bankruptcy petition, Mr. Steimel moved that Jamir Miller be released from  
19 custody and that Jamir Miller’s deposition be stayed until further order of either the  
20 Honorable Orinda D. Evans or the assigned bankruptcy judge, the Honorable Charles G.  
21 Case, United States Bankruptcy Judge.

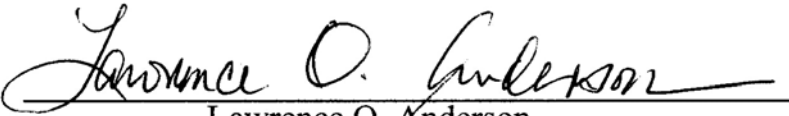
22           There being no objection by Plaintiff’s counsel and good cause appearing,  
23           **IT IS ORDERED** that Jamir Miller is hereby **RELEASED** from custody.  
24           **IT IS FURTHER ORDERED** that Jamir Miller’s deposition is hereby  
25 **STAYED** until further order of either the Honorable Orinda D. Evans or the assigned  
26 bankruptcy judge, the Honorable Charles G. Case, United States Bankruptcy Judge.

27           **IT IS FURTHER ORDERED** directing the Clerk of the Court to mail a copy  
28 of this order to the Clerk of the Court, United States District Court, Northern District of

1 Georgia, Atlanta Division and all counsel of record in No. MC-10-103.

2 Dated this 7<sup>th</sup> day of October, 2010.

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Lawrence O. Anderson  
United States Magistrate Judge