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

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9 Edward Harold Schad, Jr. and
10 Robert Glen Jones, Jr.,

11 Plaintiffs,

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vs.

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14 Janice K. Brewer, et al.,

15 Defendants.

) No. CV-13-01962-PHX-ROS

) DEATH PENALTY CASE

) **ORDER**

16 Plaintiffs Harold Schad, Jr., and Robert Glen Jones, Jr., have applied for a temporary
17 restraining order. (Doc. 6, 16). Based on the standard applicable to such requests, and the
18 evidence presented at the October 1, 2013 hearing, Plaintiffs have not carried their burden
19 of establishing they are likely to succeed on the merits or, alternatively, that there are serious
20 questions going to the merits. *See Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127
21 (9th Cir. 2011). A more complete order will be issued no later than October 4, 2013.

22 Notwithstanding the denial of the temporary restraining order, Melvin Thomas will
23 still be required to inform the Court of the identity of the person who showed him a letter
24 allegedly threatening board members or the reasons the individual wishes to remain
25 anonymous. If possible, Mr. Thomas shall obtain a copy of the letter and provide it to the
26 parties. Defense counsel shall facilitate the filing of Mr. Thomas' notice to the Court. If Mr.
27 Thomas would prefer not to provide this information to the parties, he shall hand-deliver
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1 notice containing the information above to the Clerk's office in an envelope addressed to the
2 Court.

3 Finally, Defendants moved to quash two subpoenas. The motion will be granted and
4 the two existing subpoenas will be quashed. The Court notes that Federal Rule of Civil
5 Procedure 26(d) prohibits a party from seeking discovery prior to the parties' Rule 26(f)
6 conference, except when authorized by court order. If Mr. Thomas is able to provide
7 sufficient identifying information for Plaintiffs to issue a specific subpoena seeking that
8 letter, Plaintiffs have leave of Court to issue such a subpoena.

9 Accordingly,

10 **IT IS ORDERED** the Motion for Temporary Restraining Order (**Doc. 6**) is **DENIED**.

11 **IT IS FURTHER ORDERED** Defendants' Oral Motion to Deny Motion for
12 Temporary Restraining Order (**Doc. 19**) is **DENIED AS MOOT**.

13 **IT IS FURTHER ORDERED** no later than October 3, 2013, Melvin Thomas shall
14 file notice with the Court containing either a) the name of the individual who allowed him
15 to view the letter or b) the reasons the individual wishes to remain anonymous.

16 **IT IS FURTHER ORDERED** the Motion to Quash (**Doc. 14**) is **GRANTED**.

17 DATED this 1st day of October, 2013.

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21 Roslyn O. Silver
22 Senior United States District Judge
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