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

Daniel Hamilton,
Plaintiff,
v.
Yavapai Community College District, et al.,
Defendants.

Guidance Academy LLC, et al.,
Counterclaimants,
v.
Daniel Hamilton,
Counterdefendant.

Daniel Hamilton,
Plaintiff,
v.
Yavapai Community College District, et al.,
Defendants.
and
United States of America,
Movant.

No. CV-12-08193-PCT-GMS
LEAD CASE

No. CV-15-08095-PCT-GMS
(CONSOL. FOR TRIAL)

ORDER

1 Before the Court is Defendants North-Aire Aviation, LLC and Justin and Angela
2 Scott's ("NA Defendants") Motion for Reconsideration of the Court's Ruling [Doc. 813]
3 on the United States of America's Motion to Quash Subpoena to Lon Leavitt [Doc. 775].
4 (Doc. 818.) For the following reasons, the NA Defendants' Motion is granted, and the
5 United States' Motion to Quash is denied.

6 As explained in the NA Defendants' Motion for Reconsideration, the Court
7 overlooked the timely disclosure of Lon Leavitt as a witness. The Court therefore considers
8 the substance of the United States' motion asserting privilege concerning Mr. Leavitt's
9 testimony. Although the Government moves to strike the NA Defendants' supplement
10 informing the Court that Mr. Leavitt was timely disclosed, the Court considers the
11 information, and grants the NA Defendants' request for leave to file the document, in order
12 to fully consider the record.

13 The NA Defendants subpoenaed Mr. Leavitt to testify as to his knowledge
14 concerning his job responsibilities; his role in a qui tam action; the type of information that
15 Plaintiff was required to produce to him in the subject litigation; the purpose for the
16 production of that information; the content of several emails identified as trial exhibits; and
17 the content of the United States' privilege log. The United States asserts that the subpoena
18 seeks privileged information that falls outside its agreement with the NA Defendants to
19 produce documents related to its privilege log, and that the parties' stipulation was not a
20 waiver of all information related to the log, but only the emails that were the subject of the
21 agreement. Although this matter may involve delicate issues of privilege, the Court cannot
22 make a categorical determination that all the questions the NA Defendants seek to ask
23 would elicit privileged information. The United States may make specific objections
24 regarding privilege in a motion in limine or at trial.

25 **IT IS THEREFORE ORDERED** that the NA Defendants' Motion for
26 Reconsideration of the Court's Ruling, (Doc. 818), is **GRANTED**.

27 **IT IS FURTHER ORDERED** that the United States' Motion to Quash (Doc. 775)
28 is **DENIED**.

