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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Jesus Castro Romo,	)	No. CV 12-00041-TUC-JAS
	)	
Plaintiff,	)	<b>ORDER</b>
	)	
vs.	)	
	)	
United States of America,	)	
	)	
Defendant.	)	
	)	
_____	)	

Pending before the Court is the Government’s Motion to Amend/Correct its Answer to add the affirmative defense reflected in A.R.S. §12-712(A) and (B). However, a review of the record shows this motion is likely unnecessary, because an Amended Answer was filed on June 7, 2012, which specifically claims the affirmative defense in question at page 3, paragraph 8. (Doc. No. 16). The Court notes that the parties appear to have stipulated to allow amended pleadings until July 5, 2012. Joint Report Re: 26f Conference (Doc. No. 15, p. 9, para. 10 (June 4, 2012)). It also appears the scheduling order reflects such stipulated agreement. Scheduling Order (Doc. No. 17, p. 1, para. B). In any case, if the Amended Answer was filed in error or was otherwise not in compliance with court procedures, the record shows that Plaintiff had ample notice of the defense and would not suffer prejudice from its use by the government.

The Government’s Motion to Amend its answer is, therefore, **GRANTED**.<sup>1</sup>

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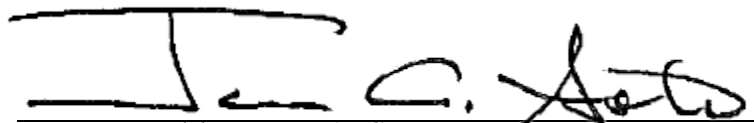
<sup>1</sup> The Court notes that Defendant bases its Motion partly on the alleged ambiguity of the statute’s constitutional infirmity, which was remedied only by recent amendment in 2014. However, the statute’s relevant sections – subsections (A) and (B) – remain unchanged since 2009 at the latest. See, e.g., *Jacobs v. United States*, 2013 WL 3282082 \*9, n.4 (D.Ariz. 2013).

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Also pending is the Government’s Motion to Strike Plaintiff’s Exhibit List and Preclude the Introduction of Non-Disclosed Exhibits. The Court notes that Plaintiff has averred that it plans to provide an updated exhibit list and binder to Defendant on July 18, which cures the bulk of Defendant’s concerns.

That motion is **DENIED** subject to Plaintiff’s compliance with the Federal Rules of Evidence for admission of documents at trial.

Dated this 18th day of July, 2014.

  
\_\_\_\_\_  
Honorable James A. Soto  
United States District Judge