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Attorneys for Defendant Joseph M. Arpaio

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

United States of America,

Plaintiff,

v.

Joseph M. Arpaio,

Defendant.

Case No.: 2:16-cr-01012-SRB-1

**DEFENDANT'S
MOTION FOR LEAVE TO FILE
MOTION FOR CHANGE OF VENUE**

1 In accordance with this Court's orders,¹ Defendant Joseph M. Arpaio ("Defendant") hereby
2 moves for leave to file a Motion for Change of Venue. Defendant's Motion for Change of Venue
3 could not be filed before the pretrial motion deadline. The Motion for Change of Venue is attached
4 hereto and submitted herewith.²

5 **RESPECTFULLY SUBMITTED** June 22, 2017.

6 **WILENCHIK & BARTNESS, P.C.**

GOLDMAN & ZWILLINGER PLLC

7 /s/ Dennis I. Wilenchik

/s/ Vincent Rene Mayr

8 Dennis I. Wilenchik, Esq.

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12 *Attorneys for Defendant Joseph M. Arpaio*

13
14 **CERTIFICATE OF SERVICE**

15
16 I hereby certify that on this 22nd day of June 2017, I electronically transmitted the
17 foregoing Notice to the Clerk of Court through the CM/ECF System which will send a Notice of
18 Electronic Filing to all CM/ECF registrants for this matter.

19 /s/ Dina D. Horsman

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21
22
23 ¹ The Court's April 12, 2017 Minute Entry stated: "The Court advises Defense counsel that before any
24 motion filed after March 24 would be allowed a motion must be filed with the Court justifying why the
25 motion(s) could not be filed prior to the March 24, 2017 motions deadline."

26 ² Excludable delay under 18 U.S.C. § 3161(h)(1)(d) will occur as a result of this motion or of an order
based thereon.



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UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

United States of America,

Plaintiff,

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Joseph M. Arpaio,

Defendant.

Case No.: 2:16-cr-01012-SRB-1

**DEFENDANT'S MOTION FOR
CHANGE OF VENUE**

1 Comes now, Defendant Joseph M. Arpaio (“Defendant”) who hereby motions this
2 Honorable Court for a Change of Venue. Defendant supports this motion with the arguments set
3 forth below.

4 **BACKGROUND**

5 The matter before this Court is a criminal contempt matter that arises from alleged actions,
6 or inactions, of Sheriff Joseph M. Arpaio while he was the duly elected Sheriff of Maricopa
7 County. Those actions, or inactions, are alleged to constitute the crime of criminal contempt,
8 inasmuch as they are alleged to violate Judge Snow’s December, 2011 injunction in a civil case
9 in this same federal district court, the United States District Court in the District of Arizona (the
10 “District Court of Arizona”). There was, has been, and continues to be constant media coverage
11 and attention of the forthcoming trial and the actions of Sheriff Joe Arpaio. In fact, undersigned
12 counsel observed television media coverage, concerning the upcoming trial, while preparing for
13 work this morning. Although the criminal matter was transferred to a judge other than the
14 Honorable Judge G. Murray Snow, i.e. the Honorable Judge Susan R. Bolton, the case remained
15 within the District of Arizona where intensive media coverage continues.

16 **ARGUMENT**

17 The massive media coverage of Sheriff Joseph Arpaio over the years will culminate in the
18 coverage of his trial. The constant barrage of media coverage would likely impact any person
19 who hears the case in Arizona. In this case, the person is a judge, the Honorable Judge Susan R.
20 Bolton. Counsel does not suggest, nor mean to suggest that Judge Bolton would be consciously
21 influenced in regards to the pending bench trial, but asserts that the influence may be there
22 nevertheless because of the inescapable media coverage that this case has and will continue to
23 have in Arizona. Further, given the past media coverage, and the anticipated media coverage at
24 the trial, Defendant respectfully submits that, in the interest of justice and fairness to the
25 defendant, it would be prudent to avoid even the appearance of any undue influence upon the
26

1 court.

2 The Defendant is entitled to a fair and unbiased trial. Given the massive media coverage
3 over the years, and now, it may be impossible for him to obtain a fair and unbiased trial in the
4 District of Arizona. Assignment of this case to another venue, where the former Sheriff is less
5 well known and did not have continuing contacts as a party on many occasions with the federal
6 district court over the years (as the Sheriff has had with the Arizona District Court), would be
7 appropriate to insure his constitution rights.

8 Additionally, venue should be changed due to the risk of the appearance of bias. This
9 applies because the case is being tried by a judge for contempt of another judge of the same court.
10 Judge Bolton made some comments in the initial status hearing indicating that she is trying to
11 “effectuate” Judge Snow’s intent, or words to that effect, which would indicate to a reasonable
12 third person that Judge Bolton is biased in favor of deferring to Judge Snow’s determinations that
13 formed the basis for the Order to Show Cause.

14 **CONCLUSION**

15 Wherefore, given the arguments set forth above, Defendant respectfully requests that this
16 Honorable Court transfer this case to any other District that it feels is appropriate under these
17 circumstances.

18 **RESPECTFULLY SUBMITTED** June 22, 2017.

19 **WILENCHIK & BARTNESS, P.C.**

GOLDMAN & ZWILLINGER PLLC

20 /s/ Dennis I. Wilenchik

/s/ Vincent Rene Mayr

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CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of June 2017, I electronically transmitted the foregoing Motion to the Clerk of Court through the CM/ECF System which will send a Notice of Electronic Filing to all CM/ECF registrants for this matter.

/s/ Dina D. Horsman _____