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SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA
2011 APR 21 PM 4: 19
JEANNE HICKS, CLERK
BY: BOBBI JO BALL

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI

STATE OF ARIZONA, Plaintiff, vs. STEVEN DEMOCKER, Defendant	**P1300CR20081339 / P1300CR201001325** **REQUEST TO FILE MOTION TO DISMISS / MOTION TO DISQUALIFY UNDER SEAL** **(Hon. Warren Darrow)**

The Defendant, by and through undersigned Counsel hereby respectfully moves this Court to be allowed to file a Motion to Dismiss / Motion to Disqualify under seal. There are two Reports that were generated by the Yavapai County Clerk's Office regarding sealed and/or ex parte pleadings in this case[1] that were provided to undersigned counsel, via Judge Mackey's March 16, 2011 "Ruling." The pleadings listed in the Reports, by their very nature, cannot be described in an unsealed proceeding without disclosing how many pleadings were filed and the reasons why they were sealed.

Rule 5(f), Arizona Rules of Civil Procedure, "Sensitive Data," states

[1]The documents were filed under V1300CR20081339, but are absolutely relevant in V1300CR201001325. V1300CR20081339 and V1300CR201001325 virtually the same case.

> (1) A person making a filing with the court shall refrain from including the following sensitive data in all pleadings or other documents filed with the court, including exhibits thereto, whether filed electronically or in paper, unless otherwise ordered by the court or as otherwise provided by law:
>
> (2) The responsibility for redacting sensitive data shall rest solely with a person making a filing with the court. ... However, if a document is subject to availability by remote electronic access pursuant to Rule 123, Rules of the Supreme Court of Arizona, any party or their attorney may request that the court order, or the court on its own initiative may order, that the document be sealed and/or replaced with an identical document with the sensitive data redacted or removed.
>
> (3) For violation of this rule, the court may impose sanctions against counsel or the parties to ensure future compliance with this rule.

The Motion to Dismiss / Motion to Disqualify must contain very sensitive data – which has been sealed. Therefore, Counsel proposes filing the Motion to Dismiss / Motion to Disqualify under seal. The Rules of the Supreme Court of Arizona, Rule 123(b), "Public Access to the Judicial Records of the State of Arizona," "Definitions," states:

> (1) Bulk Data. As used in this rule "Bulk Data" means all, or a significant subset, of the non-confidential case data maintained in a court case management system, either with or without modification or customized compilation.
>
> (2) Closed or Confidential (Records). "Closed" or "Confidential," when used in this rule in reference to records, *means that members of the public may not inspect, obtain copies of, or otherwise have access to such records unless authorized by law*. (Italics added).

The Defendant avows that he has a good faith basis to file a Motion to Dismiss / Motion to Disqualify under seal. Thus, the Defendant moves this Court to make a specific finding allowing counsel to file the Motion under seal, because the Defendant has no other means by which to discuss sealed matters and to address the contents of the Clerk's Reports other than by under seal.

RESPECTFULLY SUBMITTED this April 21, 2011.

By _____
Craig Williams
Attorney for the Defendant

Copies of the foregoing delivered this date to:
Hon. Warren Darrow, Judge of the Superior Court
Jeff Paupore, Steve Young, Yavapai County Attorney's Office
The Defendant

By:_____