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BY: L JACKSON

1 J. Andrew Jolley, # 025560
2 **PRESCOTT LAW GROUP, PLC**
3 116 N. Summit Avenue
4 Prescott, Arizona 86301
5 Phone: (928) 445-1909
6 Fax: (928) 350-8839
7 Email: andy@plgnaz.com
8 Attorney for Defendant

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10 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
11 **IN AND FOR THE COUNTY OF YAVAPAI**

12 **STATE OF ARIZONA.,**

13 **Plaintiff,**

14 **vs.**

15 **MICHAEL LEE HAM,**

16 **Defendant.**

17 **Case No.: P1300CR201901558**

18 **MOTION TO MODIFY RELEASE**
19 **CONDITIONS**

20 **(EXPEDITED)**

21 COMES NOW Defendant, Michael Lee Ham, by and through counsel undersigned,
22 pursuant to Arizona Rule of Criminal Procedure 7.4 and A.R.S. § 13-3967, respectfully requests
23 the Court to modify his release conditions and release Defendant on his own recognizance or, in
24 the alternative, to reduce bond.

25 The current bond amount is \$250,000.00. This amount creates a financial hardship on
the Defendant who had to borrow money to pay the bond. Defendant requests that he be released
on his own recognizance for the following reasons as outlined in the factors under 13-3967:

1. The views of the victim: this matter contains allegations of insurance fraud. The Victim
would be a government agency and thus should not impact the amount of Bond. As of Date,
Defense Counsel has not been provided any Victim statements that would be contrary to
reducing the Bond amount.

1 **2. The nature and circumstances of the offense charged:** Most of the offense's charged relate
2 to medical billing issues. Even by the State's own admission, these practices stopped in 2018,
3 thus there is no fear of ongoing issues.

4 **3. Whether the accused has a prior arrest or conviction for a serious offense or violent or**
5 **aggravated felony as defined in section 13-706 or an offense in another state that would be**
6 **a serious offense or violent or aggravated felony as defined in section 13-706 if committed**
7 **in this state:** Dr. Ham has an exemplary record. Besides some minor traffic tickets, he has never
8 been charged with a crime.

9 **4. Evidence that the accused poses a danger to others in the community:** There is absolutely
10 no danger to the Community. Dr. Ham has devoted his adult life and career to helping members
11 of the community.
12

13 **5. The results of a risk or lethality assessment in a domestic violence charge that is**
14 **presented to the court:** This is not applicable in this matter. No assessment was done.

15 **6. The weight of evidence against the accused:** Dr. Ham will defend these allegations and we
16 believe he will be exonerated. The State is relying on disgruntled witnesses who have provide
17 flimsy, untrue and irrelevant testimony which does not apply to the requirements of medical
18 necessity. This investigation has been ongoing for nearly two years, beginning April 17, 2018
19 and the State's case is very weak in many aspects. The only sure thing the State would have
20 against Dr. Ham is if he were to flee the State and not fight the charges. He has no intention of
21 doing so and will stand up against these allegations to their fruition.
22

23 **7. The accused's family ties, employment, financial resources, character and mental**
24 **condition:** Dr. Ham has strong ties to Arizona. He moved here 22 years ago and has built a
25 business and a family here. He has raised all three of his children in Arizona, has a strong

1 network of friends and relatives, and has no plans of leaving. Additionally, he has served his
2 community through non-profits, such as being on the board for the Boys and Girls Club of
3 Central Arizona. Dr. Ham has built his life in Arizona and has every intention of staying here for
4 the rest of it. The business he has built has served thousands of patients, many of which he
5 considers friends and/or family. This investigation started back in 2018, if Dr. Ham was
6 considering fleeing, he has had many opportunities. His intention is to stay here and clear his
7 good name. He has remained law-abiding, and strong, even through a very nasty divorce that saw
8 his ex-wife, and mother of his children, break into his home, vehicles, and required a restraining
9 order to keep away from his business. This issue is not new to Dr. Ham, and he continues to
10 show up, rebut and stand up to the allegations asserted against him.

11
12 Additionally, he has no mental health or character issues that would raise a concern for the
13 Court.

14 **8. The results of any drug test submitted to the court:** There has never been a drug test that
15 the Defense is aware of, and further, Dr. Ham has no history of drug use.

16 **9. Whether the accused is using any substance if its possession or use is illegal pursuant to**
17 **chapter 34 of this title:** Not applicable in this matter.

18 **10. Whether the accused violated section 13-3407, subsection A, paragraph 2, 3, 4 or 7**
19 **involving methamphetamine or section 13-3407.01:** Not applicable in this matter.

20
21 **11. The length of residence in the community:** As stated above, Dr. Ham has lived in Arizona
22 for 22 years, arriving on July 4, 1998 with his wife and 9-month-old daughter. Dr. Ham's
23 parents and mother-in-law also reside in Arizona.

24 **12. The accused's record of arrests and convictions:** Dr. Ham has no history of arrest or
25 convictions.

1 **13. The accused's record of appearance at court proceedings or of flight to avoid**
2 **prosecution or failure to appear at court proceedings:** Dr. Ham has always appeared and has
3 no failure to appear on his record. Although this is his first criminal case, he has been involved in
4 an ongoing divorce case in which he has proven he is willing to appear in Court and defend
5 himself. Dr. Ham could have fled after the raid which occurred at his business on October 10,
6 2018 where four officers stormed his offices and made his patients leave during the regular
7 course of business however Dr. Ham has never tried to avoid prosecution.

8
9 **14. Whether the accused has entered or remained in the United States illegally:** Not
10 applicable in this matter.

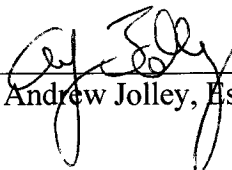
11 **15. Whether the accused's residence is in this state, in another state or outside the United**
12 **States:** Dr. Ham has lived in Arizona for 22 years and continues to reside in Maricopa County.
13 He has no residence in any other State. His parents have ties to Nebraska, where Dr. Ham was
14 raised, however, they have a home in Maricopa County as well. Dr. Ham's mother-in-law
15 resides in Yavapai County and continues to work in the medical practice on surgery days.

16 In addition to all of the above, Dr. Ham is willing to surrender his passport if the Court deems it
17 necessary.

18
19 IN CONCLUSION, we are asking the court to release the bond that is currently set
20 and allow Dr. Ham to be out on his own recognizance to allow this process, which may be
21 lengthy, to proceed without the additional burden of a high bond.

22 RESPECTFULLY SUBMITTED this 25 Day of January, 2020.

23 Prescott Law Group, PLC


24 
25 J. Andrew Jolley, Esq.

1 Original of the foregoing filed on this 26 day of January, 2020, with:

2 **Clerk of the Superior Court**
3 120 S. Cortez Street
4 Prescott, Arizona 85301

5 Copies of the foregoing hand-delivered:
6 Judge Ainley

7 Copy emailed and mailed to:
8 Cynthia Glitner
9 Assistant Attorney General

10 By: 

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