

James W. Stuehringer, Esq.
SB #004122
JStuehringer@wechv.com

LAW OFFICES
WATERFALL, ECONOMIDIS, CALDWELL,
HANSHAW & VILLAMANA, P.C.
Williams Center, Eighth Floor
5210 E. Williams Circle
Tucson, AZ 85711
(520)790-5828

Attorneys for Movant Anthony Moschonas

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

In re The Matter of FBI Documents,
Reports, Records, and Things
Regarding the Investigation
of Anthony Moschonas

No. _____

**MOTION FOR PRIVACY ACT
ORDER**

AND

**MOTION FOR PRIVACY ACT
PROTECTIVE ORDER**

Movant Anthony Moschonas ("Movant"), by and through his undersigned counsel, hereby moves this Court for a Privacy Act Order and Privacy Act Protective Order to permit the release of government information which contains material protected from disclosure under the Privacy Act and which also contains law enforcement sensitive information. In support of these motions, Movant states:

Parties to the State Court Action

1. Movant is a resident of Tucson, Arizona, and a named Defendant in a state court civil action filed in the Pima County Superior Court styled *Jane Doe v. St. Demetrios Greek Orthodox Church, et al.*, Pima County Superior Court Cause No. C2008-1702 (hereinafter "civil action").

Factual Background

10 5. On August 21, 2007, FBI agents served a search warrant on Movant's
11 residence in Tucson, Arizona. Pursuant to the search warrant, FBI agents seized
12 17 items from Movant's residence.

1 filed the civil action.

2 9. In order to obtain documents, reports, records and things made part
3 of the FBI's investigation and relevant to the civil action, Movant's counsel made
4 a Privacy Act request to the FBI pursuant to 28 C.F.R. § 16.21, *et seq.* That
5 request was made on June 18, 2008.

6 10. The specifics of that Privacy Act request have been disclosed and
7 reviewed with government counsel who have no objection to the entry of the
8 attached proposed Privacy Act Order with the proviso that the attached proposed
9 Privacy Act Protective Order also be entered.

10 11. Movant's counsel has caused to be issued a subpoena duces tecum in
11 the civil action scheduling a custodian of records deposition of Stephannie Jacobs,
12 Esq., Chief Division Counsel for the FBI Phoenix Division, for September 26, 2008.
13 The purpose of this deposition is to obtain from the FBI specific documents,
14 reports, records and things gathered by it and maintained as part of its now
15 closed criminal investigation regarding Movant. Attached as Exhibit A is the
16 subpoena duces tecum and notice for custodian of records deposition in the civil
17 action.

18 ***Jurisdiction***

19 12. This Court has jurisdiction to enter the requested Privacy Act Order
20 and Privacy Act Protective Order pursuant to 5 U.S.C. § 552(a)(4)(B); 5 U.S.C.
21 § 552a(b)(11); and *Fed. R. Civ. P.* 26(c).

22 ***Specific Items Requested Under the***
23 ***Privacy Act Order***

24 13. The fact-based evidentiary and/or investigative FBI affidavit or
25 affidavits in support of the search warrant of Movant's residence on August 21,

1 2007. This disclosure is needed as these affidavits will contain information
2 provided to the FBI by Jane Doe upon which the search warrant was based and
3 which stand to be relevant to the civil action in order to refresh recollection or for
4 impeachment purposes.

5 14. All fact-based evidentiary and/or investigative FBI reports
6 summarizing an interview conducted by the FBI of Movant. This disclosure is
7 needed as such a witness interview summary stands to be relevant to the civil
8 action in order to refresh recollection or for impeachment purposes.

9 15. All fact-based evidentiary and/or investigative FBI reports
10 summarizing an interview conducted by the FBI of Maria Moschonas. This
11 disclosure is needed as such a witness interview summary stands to be relevant
12 to the civil action in order to refresh recollection or for impeachment purposes.

13 16. All fact-based evidentiary and/or investigative FBI reports
14 summarizing interviews conducted by the FBI of Jane Doe. This disclosure is
15 needed as such witness interview summaries stand to be relevant to the civil
16 action in order to refresh recollection or for impeachment purposes.

17 17. All fact-based evidentiary and/or investigative FBI reports
18 summarizing interviews conducted by the FBI of Jane Doe's family members. This
19 disclosure is needed as such witness interview summaries stand to be relevant to
20 the civil action in order to refresh recollection or for impeachment purposes.

21 18. All fact-based evidentiary and/or investigative FBI reports
22 summarizing interviews conducted by the FBI of any material witness. This
23 disclosure is needed as such witness interview summaries stand to be relevant to
24 the civil action in order to refresh recollection or for impeachment purposes.

25 19. The tape recordings of any conversations between Jane Doe (or any

1 member of her family) and Movant. This disclosure is needed as these materials
2 stand to be relevant to the civil action in order to refresh recollection or for
3 impeachment purposes.

4 20. All fact-based evidentiary and/or investigative FBI reports, documents
5 or writings reflecting forensic analysis of the items seized by the FBI from
6 Movant's residence during the search conducted on August 21, 2007. This
7 disclosure is needed as forensic analysis reports, documents or writings stand to
8 be relevant to the civil action.

9 21. All photographs or surveillance videos taken by the FBI involving
10 Movant and Jane Doe (or any member of her family). This disclosure is needed
11 as these materials stand to be relevant to the civil action in order to refresh
12 recollection or for impeachment purposes.

13 22. All fact-based evidentiary and/or investigative reports summarizing
14 witness interviews conducted by law enforcement authorities in Greece and in the
15 possession of the FBI. This disclosure is needed as such witness interview
16 summaries stand to be relevant to the civil action in order to refresh recollection
17 or for impeachment purposes.

18 23. All phone records of Jane Doe and Movant obtained by the FBI as part
19 of its investigation. This disclosure is needed as such phone records stand to be
20 relevant to the civil action in order to refresh recollection or for impeachment
21 purposes.

22 24. The 17 items seized by the FBI in its August 21, 2007, search of
23 Movant's residence. This disclosure is needed as these materials stand to be
24 relevant to the civil action.

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WATERFALL, ECONOMIDIS, CALDWELL, HANSHAW & VILLAMANA, P.C.
5210 E. Williams Circle, Suite 800
Tucson, AZ 85711
(520)790-5828

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CONCLUSION

Prompt entry of a Privacy Act Order and Privacy Act Protective Order are necessary for the conduct of discovery and eventual trial in the civil action. Movant has attached hereto as Exhibit B a proposed Privacy Act Order and Privacy Act Protective Order and has also attached as Exhibit C an Acknowledgment of Privacy Act Protective Order for the Court's consideration and adoption.

RESPECTFULLY SUBMITTED this 8th day of September, 2008.

WATERFALL, ECONOMIDIS, CALDWELL,
HANSHAW & VILLAMANA, P.C.

By /s/ James W. Stuehringer
James W. Stuehringer
Attorneys for Movant Moschonas

Original of the foregoing filed through
NEF this 8th day of September, 2008, with:

U.S. District Court of Arizona
405 West Congress
Tucson, AZ 85701

Copy of the foregoing hand delivered
this 8th day of September, 2008, to:

Janet K. Martin, Esq.
Office of United States Attorney
405 W. Congress, #4800
Tucson, AZ 85701

A copy of the foregoing mailed this
8th day of September, 2008, to:

Stephannie Jacobs, Esq.
Chief Division Counsel
Federal Bureau of Investigation
201 E. Indianola Ave.
Phoenix, AZ 85012

WATERFALL, ECONOMIDIS, CALDWELL, HANSHAW & VILLAMANA, P.C.
5210 E. Williams Circle, Suite 800
Tucson, AZ 85711
(520)790-5828

- 1 Jason R. Cammack, Esq.
Acting Associate Division Counsel
- 2 Federal Bureau of Investigation
- 3 201 E. Indianola Ave.
Phoenix, AZ 85012

- 4 Joel T. Ireland, Esq.
Christopher N. Kalabus, Esq.
- 5 Goldberg & Osborne
- 6 2323 N Campbell Ave.
Tucson, AZ 85719
- 7 Attorneys for Plaintiff (Civil Action)

- 8 Scott A. Salmon, Esq.
The Cavanagh Law Firm
- 9 1850 N. Central Ave., Ste. 2400
Phoenix, AZ 85004-4527
- 10 Attorneys for Defendant St. Demetrios
Greek Orthodox Church, Inc. (Civil Action)

- 11 James G. Speer, Esq.
Gust Rosenfeld, P.L.C.
- 12 201 E. Washington, Suite 800
Phoenix, AZ 85004-2327
- 13 Attorneys for Defendant Greek Orthodox Archdiocese
of America, Metropolis of San Francisco (Civil Action)

- 14 Elaine N. Chou, Esq.
Philip C. Semprevivo, Esq.
- 15 Biederman, Reif, Hoenig & Ruff, P.C.
- 16 570 Lexington Ave.
New York, NY 10022
- 17 Attorneys for Defendant Greek Orthodox Archdiocese
of America, Metropolis of San Francisco (Civil Action)

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- 19 /s/ Eileen Smith_____
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