

1 David Burnell Smith
2 AZ Bar No. 7746
3 4310 N 75th St.
4 Scottsdale, AZ 85251

5 Larry Klayman
6 Pro Hac Vice Pending
7 2020 Pennsylvania Ave., NW, Suite 800
8 Washington, D.C. 20006
9 Telephone: (310) 595-0800
10 Email: leklayman@gmail.com

11 Attorneys for Plaintiffs

12 **SUPERIOR COURT OF ARIZONA**

13 **MARICOPA COUNTY**

14 JAMES WISE, a citizen and qualified
15 elector of Maricopa County, JEFF
16 LICHTER, a citizen and qualified
17 elector of Maricopa County, CITIZENS
18 TO PROTECT FAIR ELECTION
19 RESULTS, a Limited Liability
20 Company organized in the state of
21 Arizona,

22 Plaintiffs,

23 v.

24 KEN BENNETT, et al,

25 Defendants.

No. LC2013-000137-001DT

**PLAINTIFFS' OPPOSITION TO
DEFENDANTS'
MOTION TO DISMISS AND FOR
ATTORNEY'S FEES**

26 Plaintiffs James Wise, Jim Lichter, and Citizens to Protect Fair Election Results

27 ("CPFER"), hereby oppose Defendant Respect Arizona's Motion to Dismiss Plaintiffs' Verified
28 Complaint and Motion for Attorney's Fees.

1 INTRODUCTION

2 Sheriff Joseph M. "Joe" Arpaio was recently re-elected to serve another four-year term as
3 Sheriff of Maricopa County, Arizona in the November 2012 Arizona General Election. Sheriff
4 Arpaio won his re-election handily with more than six percentage points of the total number of
5 votes, clearly evidencing the Arizona electors' approval of the policies and procedures Sheriff
6 Apraio implemented during his previous terms in office. Sheriff Arpaio was subsequently sworn
7 in for his sixth term in office on January 7, 2013.
8

9 Under Sheriff Arpaio's continued leadership, the Maricopa County Sheriff's Department
10 maintained the same policies and procedures it had prior to the 2012 General Election. Yet,
11 within days after Sheriff Arpaio was sworn into office, the political group called "Respect
12 Arizona" was formed for the sole purpose of forcing a recall of Sheriff Arpaio.
13

14 After filing paperwork to initiate the recall election process on or about January 31, 2013,
15 Respect Arizona launched an aggressive campaign to obtain the requisite 335,317 signatures
16 needed to force a recall election. Respect Arizona began soliciting donations from in-state and
17 out-of -state donors, using the recall election as a way of enticing donations from those who do
18 not agree with Sheriff Arpaio's policies. In fact, the group created and published a widespread
19 online website as a tactic to solicit donations for the specific purpose of funding the recall
20 election (*See www.recallarpaio.com*).
21

22 However, Respect Arizona's efforts to force a recall of Sheriff Arpaio are legally barred
23 and void for countless reasons. Specifically, Respect Arizona commenced this illegal recall
24 petition at least six months prior to Sheriff Arpaio beginning his term in office, which is in direct
25 violation of Article 8, Part 1, Section 3 of the Arizona Constitution. Moreover, Respect Arizona
26
27
28

1 has absolutely no basis for the recall other than the group and its organizers are angered that
2 Sheriff Arpaio was duly elected for another term of office.

3
4 STANDARD OF REVIEW

5 Ariz.R.Civ.P. 8(a)(2) of the Rules of Civil Procedure for the Superior Courts of Arizona
6 simply states that a plaintiff's complaint must contain nothing more than a "short and plain
7 statement of the claim showing that the pleader is entitled to relief." Ariz.R.Civ.P. 8(a)(2). The
8 purpose of a complaint, under Arizona's notice pleading standard, is simply to "give the
9 opponent fair notice of the nature and basis of the claim and indicate generally the type of
10 litigation involved." *Mackey v. Spangler*, 81 Ariz. 113, 115, 301 P.2d 1026, 1027-28 (1956);
11 *Cullen v. Auto-Owners Ins. Co.*, 218 Ariz. 417, 419, 189 P.3d 344, 346 (Ariz. 2008) ("Arizona
12 follows a notice pleading standard.").

14 The Respect Arizona Defendants in this case have moved to dismiss pursuant to Arizona
15 Rules of Civil Procedure 12(b)(6). When evaluating a motion under rule 12(b)(6), the court must
16 treat as true allegations of material fact "and indulge all reasonable inferences therefrom."
17 *Cullen*, 218 Ariz. at 419, 189 P.3d at 346. The Arizona Supreme Court has directed courts in this
18 state "to consider only the reasonable inferences that can be drawn from well-pled facts . . .
19 look[ing] only to the pleading itself." *Id.*

21 A complaint that merely states legal conclusions without supporting factual allegations
22 will not survive a motion to dismiss. *Cullen*, 218 Ariz. at 419, 189 P.3d at 346; *Grand v.*
23 *Nacchio*, 225 Ariz. 171, 175 n.1 236 P.3d 398, 402 (Ariz. 2010) ("In evaluating motions to
24 dismiss, Arizona courts consider only the 'well-pled facts,' not legal conclusions."). Likewise, a
25 complaint that relies on mere conclusory statements of fact will fail. *Coleman v. City of Mesa*,
26 284 P.3d 863, 867 (Ariz. 2012). Dismissal is appropriate only where plaintiffs "as a matter of
27
28

1 law . . . would not be entitled to relief under any interpretation of the facts susceptible of proof."
2 *Fidelity Sec. Life Ins. Co. v. Dept of Ins.*, 191 Ariz. 222, 224, 954 P.2d 580, 582 (Ariz. 1998).
3 Plaintiffs' Complaint easily meets this standard.

4
5 ARGUMENT

6 Defendants Actions Violate the Arizona Constitution.

7 Article 8, part 1, section 3 of the Arizona Constitution states: "No Recall petition shall be
8 circulated against any officer until he has held his office for a period of six months, except that it
9 may be filed against a member of the legislature at any time after five days from the beginning of
10 the first session after his election." The Arizona Constitution provides one and only one
11 exception to the six-month rule, which is inapplicable to the case at hand. The exception applies
12 only to members of the legislature who can have a recall petition started against them five days
13 after the legislative session begins.
14

15 Only two other provisions of the Arizona Constitution are relevant to this matter. First,
16 the Arizona Constitution further provides that "[t]he general election laws shall apply to recall
17 elections in so far as applicable. Laws necessary to facilitate the operation of the provisions of
18 this article shall be enacted..." Ariz. Const. Art. VIII, part 1, 0167.
19

20 Second, under Article XXI of the Arizona Constitution, there are only three methods for
21 amending the Arizona constitution. Specifically, these methods are limited to: 1) ballot initiated
22 constitutional amendment, 2) legislatively-referred constitutional amendments that are placed on
23 the ballot by the Arizona legislature, and 3) a constitutional convention imitated by a statewide
24 vote of the people. Ariz. Const. Art. XXI. The common thread among the methods of amending
25 the Constitution is that it must be approved by the Arizona voters.
26

27 The legal determination and disposition of this lawsuit is thus quite simple. "The
28

1 constitution of this state, second only to the constitution of the United States, is the supreme law
2 of Arizona." *Miller v. Heller*, 68 Ariz. 352, 357, 206 P.2d 569, 573 (1949). Any portion of the
3 Arizona Revised Statutes that conflicts with the Arizona Constitution is unconstitutional and thus
4 null and void.

5
6 Defendants cite to Arizona Revised Statute 19-202(A) which provides that "[t]he
7 commencement of a subsequent term in the same office does not renew the six month period
8 delaying the circulation of a recall petition." Defendants, however, conveniently misconstrue the
9 constitutionality of ARS 19-202. Specifically, section 19-202 is unconstitutional since (1) it was
10 not approved as a constitutional amendment pursuant to the methods provided under the Arizona
11 Constitution; (2) it does not facilitate the operation of election laws; but rather (3) it is in direct
12 conflict with the provisions of the Arizona Constitution.

13
14 As shown above, all methods of amending the Arizona Constitution require approval by
15 voters, and are limited to a 1) ballot initiated constitutional amendment, 2) legislatively-referred
16 constitutional amendments that are placed on the ballot by the Arizona legislature, and 3) a
17 constitutional convention imitated by a statewide vote of the people. No such method of
18 amending the constitution was used when the Arizona legislature enacted A.R.S. Section 19-202.

19
20 While the Arizona Constitution allows for laws to be enacted to *facilitate* the operation of
21 election laws, the enactment of such laws are limited to those that are necessary to assist in
22 carrying out the operation of the election provisions. The legislature cannot simply enact laws
23 that are inconsistent with the Arizona Constitution under the guise that said laws facilitate the
24 operation of election laws.

25
26 Since Arizona Revised Statutes Section 19-202 was not approved as a constitutional
27 amendment consistent with the methods provided, lacking the requisite voter approval, and does
28

1 not facilitate the operation of election laws but instead operates in direct conflict with the
2 constitution, the section 19-202 provision is thus, null and void.

3 Plaintiffs Properly Pled A Viable Cause Of Action for Abuse of Process

4 "The essential elements of the tort [of abuse of discretion] are first, an ulterior purpose,
5 and second, a willful act in the use of the process not in the regular conduct of the proceeding."
6 *Rondelli v. County of Pima*, 120 Ariz. 483, 489 (Ariz. Ct. App. 1978) citing Prosser, *The Law of*
7 *Torts*, § 121. "The gist of the tort of abuse of process is misusing process justified in itself for an
8 end other than that which it was designed to accomplish." *Id.* Further, it is immaterial that the
9 process may have been properly obtained. Subsequent misuse may constitute misconduct for
10 which liability is imposed. *Nienstedt v. Wetzel*, 133 Ariz. 348, 353-354 (Ariz. Ct. App. 1982).

11
12
13 Plaintiffs properly pled both elements of a claim for abuse of process. Plaintiffs pled in
14 their complaint that the Defendants were initializing the recall election "in order to harass,
15 coerce, and prevent Joseph Arpaio from carrying out his duties as Sheriff of Maricopa County
16 and for other reasons not designed for use by Arizona's recall statutes." Complaint ¶ 34.
17 Specifically, Defendants are seeking to "have the 2012 General Election results thrown out, and
18 to have a recall election go forward. Respect Arizona seeks to disenfranchise and nullify the
19 votes lawfully cast by all the citizens of Maricopa County, Arizona in November of 2012."
20 Complaint ¶42. The purpose of the recall election, as evidenced by the six month prohibition on
21 filing a recall election in the Arizona Constitution, is to allow a method to recall officers of the
22 state if in the course of their terms they do not follow through with policies or change them in the
23 course of their serving office. Here, no such thing happened. Sheriff Arpaio continued with the
24 same policies that he had dutifully performed over the course of his multiple terms in office.
25
26 Defendants, unhappy with the result of the recent election which was lost handily by at least six
27
28

1 percentage points, now seek a "do-over" out of hatred for him and simply to harass the Sheriff
2 and prevent him from faithfully performing the duties of the office of Sheriff of Maricopa
3 County.

4 Defendants incorrectly state that the common law tort of abuse of process only applies to
5 judicial proceedings. Motion to Dismiss at 6. Yet Defendants site no such precedent which
6 limits the tort to only judicial proceedings because there are none. The court in *Rondelli* stated
7 that the recall process in that case was political, but did not hold that a recall election could never
8 be a judicial matter. In fact, the plain language of the Arizona Revised Statutes implies the
9 inherent involvement of judicial process in recall elections, particularly as court proceedings are
10 an integral part of the recall process. The Arizona Revised Statutes provide that the courts are
11 involved in judicial review of actions by the county recorder. *See, e.g.* A.R.S. 19-121.03, 19-
12 208.04, 19-122.

13 Moreover, the fact of the matter is that previous to this lawsuit no party had engaged in
14 such a blatant abuse of the political process a mere couple of weeks after an officer of the state
15 had been sworn in. This recall election will do nothing but waste taxpayer dollars in order to
16 have a "re-do" and hold another election mere months after Sheriff Arpaio was duly elected.
17 The voters of Maricopa County will have another chance to either approve or disapprove of
18 Sheriff Arpaio's performance the next election in 2016. As such, Defendant's tactic in bringing
19 forth a meritless recall petition, utilized in their effort to accomplish their ulterior and nefarious
20 motives and impede on Sheriff Arpaio ability to perform his duties, constitute an abuse of
21 process, sufficient to impose liability. Respect Arizona's continued refusal to withdraw their
22 meritless and costly recall petition, which has perpetuated court involvement, is undoubtedly a
23 further abuse of process.
24
25
26
27
28

1
2 Plaintiffs Properly Pled a Cause of Action Under the Due Process Clause

3 The Arizona Constitution provides "[n]o person shall be deprived of life, liberty, or
4 property without due process of law." Ariz. Const. art. 2 section 4. The U.S. Constitution
5 provides "No state shall...deprive any person of life, liberty, or property, without due process of
6 law." U.S. Const., Amend XIV, section 1.
7

8 Substantive due process protects the fundamental right of all citizens to vote. Here,
9 Sheriff Arpaio won his sixth term as Sheriff of Maricopa County in November of 2012.
10
11 Complaint ¶ 14. The recall petition was filed merely a few days after Sheriff Arpaio was sworn
12 in. The Plaintiffs in this lawsuit lawfully voted for Sheriff Arpaio. Complaint ¶¶ 3,4. Instead of
13 resting assured that their vote lawfully and validly re-elected Sheriff Arpaio, Plaintiffs are faced
14 with a political committee of hateful "sore losers" who are frantically and aggressively
15 attempting to move forward with their frivolous recall petition, with absolute disregard to the
16 fact that they are wasting valuable taxpayer dollars and attempting to disenfranchise voters'
17 rights.
18

19 Defendants present nothing more than a red herring argument that Defendant Respect
20 Arizona and its founders are not state actors for purposes of due process protections. Motion to
21 Dismiss at 7. This is exactly why the Arizona Secretary of State, the Maricopa County Board of
22 Supervisors, the Maricopa County Recorder, and the Maricopa County Elections Director are
23 named defendants in this lawsuit. *See generally* Complaint ¶¶ 6-10. Respect Arizona is working
24 in concert with Arizona state officials to commit illegal acts, such as fraud. It is unquestionable
25 that the officers of the state are representing the state of Arizona. It is the state of Arizona, and
26 Maricopa County, which derives its power from the state of Arizona, that are the state actors in
27
28

1 this lawsuit.

2 THERE IS NO BASIS FOR SANCTIONS OR ATTORNEY'S FEES

3 Sanctions Under A.R.S. § 12-349

4 Under the Arizona Revised Statutes, attorney's fees under A.R.S. § 12-349 are proper
5 only when a suit is brought "without substantial justification." A.R.S. § 12-349 (A). This means
6 that the claim or defense is groundless, not made in good faith, and constitutes harassment.
7
8 A.R.S. § 12-349(F).

9 As the court in *Gilbert* holds, all three elements of harassment, groundlessness, and lack
10 of good faith must be present in order to prevail on a sanction claim. *Chavarria v. State Farm*
11 *Mut. Auto. Ins. Co.*, 165 Ariz. 334, 338 (Ariz. Ct. App. 1990) *citing Gilbert v. Board of Medical*
12 *Examiners*, 155 Ariz. 169, 745 P.2d 617 (App.1987). Here, not only do the Defendants fail to
13 satisfy all three of the elements, but they do not and cannot satisfy even a single one.
14

15 Harassment

16 Defendants' own precedent, *Phoenix Newspapers v. Dept. of Corr.*, 188 Ariz. 237, 243
17 934 P.2d 801, 807 (Ariz. Ct. App. 1997), even sides with Plaintiffs. In *Phoenix Newspapers*, the
18 Arizona Court of Appeals found that the awarding of sanctions was improper as the trial court
19 could not find a showing of the plaintiff's intent to harass. The court made the distinction that
20 although "the action had a harassing 'effect,' A.R.S. section 349 - as well as section 341.01 -
21 requires harassing *intent*." *Id.* at 245 (Emphasis added).
22

23 Here, the Plaintiffs' intent is to keep Sheriff Arpaio as the sheriff of Maricopa County.
24 Plaintiffs lawfully and duly elected Sheriff Arpaio and hold no grudges against the Respect
25 Arizona Defendants. In fact, Plaintiffs would not be engaging in litigation but for Respect
26 Arizona's recall election efforts.
27
28

1 The Defendants falsely claim that the lawsuit is having a harassing *effect* by showing
2 some unspecified "campaign donors" have "expressed concern." Decl. of Lilia Alvarez at 3.
3 Some voters expressing concern is no showing of harassment by the Plaintiffs. The Plaintiffs
4 only sent a simple cease and desist letter and filed a proper lawsuit under the Arizona
5 Constitution. Cease and desist letters and filing complaints are entirely consistent with the legal
6 process and the law. **Defendants fail to recognize that their inability to obtain signatures**
7 **could be because the voters in the county were the same ones who elected Sheriff Arpaio by**
8 **over six percentage points.**
9

10
11 Nevertheless, even if the Defendants show that there is a harassing *effect*, which they
12 have failed to do, this is irrelevant. As ruled in *Phoenix Newspapers*, the effect of Plaintiffs'
13 lawsuit is not a basis for sanctions, *intent* of harassment is required. Defendants can in no way
14 prove that it is Plaintiffs' intent to harass them. Defendants have no basis for moving for
15 sanctions other than they are displeased they were sued when they violated the Arizona
16 Constitution.
17

18 Indeed, it is Defendants themselves who are harassing Sheriff Arpaio by interfering with
19 his lawful duties as Sheriff of Maricopa County and forcing him undergo another costly election.
20 Sheriff Arpaio is once again forced to spend his time fundraising and campaigning for no reason
21 other than the Defendants were and continue to be livid that Sheriff Arpaio was reelected.
22 Plaintiffs simply wish for the madness to end, so that they continue to have the consistent law
23 enforcement that Sheriff Arpaio has thoroughly provided for over twenty years.
24

25 Groundlessness and Good Faith

26 The remaining elements for sanctions under A.R.S. § 12-349 are that a lawsuit must be
27 groundless and made in good faith. As stated above, this lawsuit was brought with a solid basis
28

1 under the Arizona Constitution which specifically prohibits a recall election within the first six
2 months of a term of office. That the Defendants do not agree with Plaintiffs' reading of the
3 Arizona Constitution does not make the claim groundless.

4
5 Furthermore, Plaintiffs have brought this case specifically to protect their right to vote for
6 Sheriff Arpaio, and the results of the elections merely a few months ago. Sheriff Arpaio is
7 protected from a recall, especially at this time, under the Arizona Constitution and the Plaintiffs
8 have brought suit in order to ensure the protections provided for him and every other elected
9 officer, as well as the voters of Maricopa County, who would have to cover the cost of the recall
10 election were it to be illegally held. Defendants have not made a showing of bad faith, nor can
11 they.
12

13 Thus, Defendants have failed to prove a single one of the three elements needed for
14 sanctions under A.R.S. § 12-349 and this motion must respectfully be denied.

15 Rule 11 Sanctions Are Also Improper - Attorney's Fees Should Be Imposed Against
16 Defendants For Filing this Motion.

17 Under Ariz.R.Civ.P. 11(a) "if the issues raised are supportable by any reasonable legal
18 theory, or if a colorable legal argument is presented about which reasonable attorneys could
19 differ, the argument is not objectively frivolous." *In re Levine*, 174 Ariz. 146, 153 (Ariz. 1993).

20 A frivolous issue is one that "indisputably has no merit -- when any reasonable attorney
21 would agree that the appeal is totally and completely without merit." *Thompson v. Sun City*
22 *Community Hosp.*, 141 Ariz. 597, 605 (Ariz. 1984) *citing Evans v. Arthur*, 139 Ariz. 362, 678
23 P.2d 943, 944 n. 1 (1984).
24

25
26 In order to impose Ariz.R.Civ.P. 11 sanctions "[t]he trial court must make specific
27 findings to justify its conclusion that a party's claims or defenses are frivolous." *Wells Fargo*
28 *Credit Corp. v. Smith*, 166 Ariz. 489, 497 (Ariz. Ct. App. 1990) *citing State v. Richey*, 160 Ariz.

1 564, 774 P.2d 1354 (1989).

2 Here, as shown above, none of Plaintiffs' claims are frivolous. The recall provisions of
3 the Arizona Constitution, as well the constitutionality of A.R.S. Section 19-202 as applied to the
4 Arizona Constitution, have never been determined by this Court. Plaintiffs have presented not
5 only a reasonable legal theory, but a correct legal theory that is based on the clear wording of the
6 Arizona Constitution and its application to the Arizona election laws.
7

8 In addition, Plaintiffs have fully pled claims for abuse of process and for violations of the
9 due process clauses of the Arizona and U.S. Constitutions. There is thus no basis for sanctions
10 under Rule 11.
11

12 Rule 11 Sanctions Would be Improper At This Time In Any Event

13 Even if a case fails to survive a motion to dismiss, it is well established -- throughout the
14 country -- that sanctions are inappropriate at the motion to dismiss stage of litigation. See *Tahfs*
15 *v. Proctor*, 316 F.3d 584, 595 (6th Cir. 2003) ("A complaint does not merit sanctions under Rule
16 11 simply because it merits dismissal pursuant to Rule 12(b)(6)."); *Protective Life Ins. Co. v.*
17 *Dignity Viatical Settlement Partners, LP*, 171 F.3d 52, 58 (1st Cir. 1999) ("The mere fact that a
18 claim ultimately proves unavailing, without more, cannot support the imposition of Rule 11
19 sanctions."); *Kizer v. Children's Learning Ctr.*, 962 F.2d 608, 613 (7th Cir. 1992) (denial of
20 sanctions upheld where although court granted summary judgment for defendants, court could
21 not conclude that plaintiff filed her claim with either improper motive or inadequate
22 investigation); *Mover's & Warehousemen's Ass'n of Greater New York v. Long Island Moving &*
23 *Storage Ass'n*, 98 CV 5373 (SJ), 1999 U.S. Dist. Sanctions under Rule 11 61 LEXIS 20667, at
24 *27 (E.D.N.Y. Dec. 16, 1999) ("That plaintiff's claims do not survive a motion to dismiss render
25 them neither frivolous nor necessarily untrue; they are merely insufficiently alleged.").
26
27
28

1 Plaintiffs Should Respectfully Be Awarded Attorney's Fees For Having to Respond to
2 This Motion.

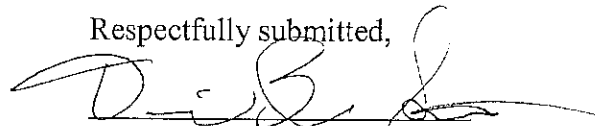
3 Defendants' Motion for Sanctions was filed frivolously and without basis. Sanctions are
4 improper based on the merits of Plaintiffs' lawsuit, as well as the timing of the case. Plaintiffs
5 and their counsel have spent considerable time and resources researching and drafting this
6 opposition to Defendants' non-meritorious motion, which ironically itself constitutes more
7 hateful harassment of Sheriff Arpaio, the voters of Maricopa County, Plaintiffs, and their
8 counsel.¹

10 CONCLUSION

11 For the foregoing reasons, the Defendants' Motion to Dismiss and For Attorney's Fees
12 should respectfully be denied. Further, because of the frivolousness of the Respect Arizona
13 Defendants' Motion for Sanctions, attorney's fees and costs should respectfully be awarded
14 against the Defendants.
15

16 Dated: May 17, 2013

17 Respectfully submitted,

18 

19 David Burnell Smith
20 AZ Bar No. 7746
21 4310 N 75th St.
22 Scottsdale, AZ 85251

23 Larry Klayman
24 Pro Hac Vice Pending
25 2020 Pennsylvania Ave., NW, Suite 800
26 Washington, D.C. 20006

27 Attorneys for Plaintiffs

28 ¹ Perhaps as a result of this whipped up antagonism by the Respect Arizona Defendants, Sheriff Arpaio's life was recently put at risk. Exhibit 1.

CERTIFICATE OF SERVICE

I hereby certify that the original of the forgoing was filed this 17th day of May, 2013 with:

Maricopa County Superior Court
201 W. Jefferson
Phoenix, AZ 85003

Copy of the foregoing was hand delivered this 17th day of May, 2013 upon the following:

Honorable Michael Herrod
Maricopa County Superior Court
201 W. Jefferson
Phoenix, AZ 85003

Copy of the foregoing was mailed to the following this 17th day of May, 2013 upon the following:

Chris Ford, Esq.
Law Office of Chris Ford
7000 N. 16th street, Suite 120-170
Phoenix, AZ 85020

Attorney for the Respect Arizona Defendants

Package sent to Arpaio could have injured, killed

Posted: Apr 11, 2013 9:41 PMPDT

Updated: Apr 16, 2013 9:41 PMPDT

By BOB CHRISTIE and FELICIA FONSECA
Associated Press

PHOENIX (AP) -- Arizona authorities say a package addressed to Sheriff Joe Arpaio discovered in a northern Arizona mailbox would have exploded if opened, leading to serious injuries or death.

Maricopa County Chief Deputy Jerry Sheridan made the comment Friday at a news conference in Phoenix. He said investigators are trying to locate one person who may have been involved in mailing the package addressed to his boss.

The package intercepted late Thursday was addressed to Arpaio at his downtown Phoenix office. It had been left in a parcel locker that was part of a multiple address mailbox in a rural part of Coconino County, outside Flagstaff city limits.

U.S. Postal Inspection Service spokesman Keith Moore said a courier called his supervisor after noting it was suspicious, and the package was eventually brought into the main Post Office in Flagstaff. An X-Ray showed what appeared to be bomb-like components, including wires and a container, and authorities used a water cannon to neutralize the package, Sheridan said.

Arpaio, the self-proclaimed "toughest sheriff in America," said this isn't the first time he's been threatened. Arpaio is known nationally for his strict treatment of jail inmates and cracking down on illegal immigration.

"Of course you worry. I'm a victim, I'm a witness. When you convict people, the victim has to be somewhat concerned. I'm a little concerned about my family," Arpaio said at the news conference. "I didn't ask for all these threats."

Postal Inspector Patricia Armstrong said authorities were alerted by a "very astute" carrier who observed "something suspicious" about the package.

Armstrong didn't elaborate on what raised suspicion, but Tom Mangan, a spokesman in Phoenix for the federal Bureau of Alcohol, Tobacco, Firearms and Explosives, said initial reports indicated that the package was a box that might have been damaged in transit and leaked gunpowder.

Sheridan said the package contained black powder and an ignition device, although he wasn't sure if it was packed into a container and would have exploded or simply ignited in a flash fire. Either way, he said, it was very dangerous.

"Had someone opened that package, it would have caused a major explosion and caused serious physical injury, burns and maybe death," Sheridan said. "That is a very, very serious threat."

Authorities in Flagstaff, which is about 140 miles north of Phoenix, said they are pursuing leads in the case.

Arpaio said he receives lots of packages, including ones with cookies recently as he recuperated from a broken shoulder suffered when he fell crossing a street on his way to lunch. He said he opens some of the packages personally.

"Hey, they send me cookies, now they send me bombs," he said Friday. "It's a little different."

Arpaio said the mailing of an explosive device addressed to him comes with his line of work. He cited the recent killings of a West Virginia sheriff, Colorado's corrections director and two prosecutors in Texas.

"That's the nature of the business," he said.

Arpaio said whoever is responsible for mailing the package, if found, would be brought to justice.

"I'm not going to be intimidated by anyone, that's a promise," he said.

Following the killing of a West Virginia sheriff last week, Arpaio said elected law enforcement officials across the nation seem to be targeted.

Arpaio has had a security detail for years, and regularly receives threats. This week, the sheriff's office said he had received threats from Mexican drug cartels which put a \$4 million bounty on him and possibly dispatched a hit man to attack him.

The office distributed a list of 10 cases since mid-2011 where people threatened the sheriff, who is known for housing inmates in tents and forcing the men to wear pink underwear. Most involved people posting threats on the Internet or following routine arrests. Several suffered from a mental illness, and several people reportedly were prompted by Arpaio's stance against illegal immigrations.

Sheridan said there's no evidence linking the package found Thursday with a specific threat or cartels.

A campaign to recall Arpaio began just weeks after he started his sixth term in January.

Critics contend that Arpaio should be ousted because his office failed to adequately investigate more than 400 sex-crimes cases, allegedly racially profiled Latinos in its trademark immigration patrols and has cost the county \$25 million in legal settlements over treatment in county jails.

Arpaio has denied that his deputies racially profiled Latinos in traffic patrols targeting illegal

immigration. His office has moved to clear up the sex-crime cases and moved to prevent the problem from happening again, he said.

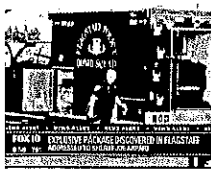
Sheridan and Arpaio both lashed out at the Department of Justice and immigrant activists who criticize him, saying they rile up people who are unstable and end up threatening Arpaio.

"I'm saying the tempo out there, about this sheriff, does cause people to do bad things," Arpaio said.

Copyright 2013 The Associated Press. All rights reserved. This material may not be published, broadcast, rewritten or redistributed.

RECOMMENDED VIDEOS

by Taboola



Package containing bomb addressed to Sheriff Joe's office



10 Of The Ugliest Celebrities
Grated



How to Lose 9 Lbs in 7 Days
Healthy Lifestyle Today



Arpaio returns to work after suffering injury



Heart Attack: How Your Body Warns You Days Before
Newsmax



Why Stylists Hate Boxed Haircolor
Hair Color For Women



Penalty phase begins in Jodi Arias murder trial



Package containing explosives addressed to Sheriff Joe's office

YOU MIGHT BE INTERESTED IN

Arpaio says he could lose if recall race is called *March 25, 2013*

Experts examine package that was sent to Arpaio *April 16, 2013*

Man found dead in Gilbert street *May 17, 2013*

Man arrested for posting Arpaio death threat on Facebook *February 26, 2013*

Seagal misses out on Arizona posse training *April 24, 2013*

Medicaid standoff leads to budget delay, lawmaker pay cuts *May 13, 2013*

FROM AROUND THE WEB

5 Things Start Cancer In Your Organs
(Newsmax)

10 Of The Ugliest Celebrities (Grated)

How to Lose 7 Pounds in 7 Days
(Healthy Lifestyle Today)

Lungs don't whistle on their good days.
(HealthNation)

3 small businesses you won't believe are real (CNBC)

These 5 Things Start Cancer in Your Body. Watch Video. (Newsmax)

by Taboola



Add a comment...

Comment



Patty Cuoco Lipari Schoen-Jones · Top Commenter · Works at Eastern Airlines 17 years Continental Airlines 10 years

Thank G-d they found this. They should be thanking Sheriff Joel

Reply · 4 · Like · April 12 at 4:32am



Joyce Stillman-myers · Top Commenter · Artist at My Own Studio
tooooooo bad!

Reply · 2 · Like · April 11 at 10:53pm



Robert Jennings · Top Commenter · Mesa, Arizona

Having a liberal hate fest this weekend Joyce? Invite all your progressive friends and rant till the cows come home.

Reply · 2 · Like · April 12 at 3:48pm



Joyce Stillman-myers · Top Commenter · Artist at My Own Studio

Americans don't torture

Reply · 2 · Like · April 25 at 3:29pm



Joyce Stillman-myers · Top Commenter · Artist at My Own Studio

oops, my mistake. I meant , thank you.

Reply · Like · April 25 at 3:30pm



Donna Ann Carry Hildebrandt

Where's the love - where's the tolerance? Oh, I forgot, that only works one way!

Reply · 5 · Like · April 11 at 10:38pm



Brandy Baron · Top Commenter · Phoenix Therapeutic Massage College · 342 subscribers

Sheriff Joe's haters must not have much faith in their recall effort. Long live Sheriff Joel

Reply · 12 · Like · April 11 at 10:08pm



Jack Hotchkiss · Top Commenter · Kingman, Arizona

That is what you were waiting for Joe, Now track it back to the white house.

Reply · 7 · Like · April 11 at 10:10pm

Facebook social plugin

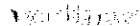
worldnow

KS AZ-TV & KUTP
511 W. Adams St.
Phoenix, AZ 85003

Phone: (602) 257-1234
Fax: (602) 262-0177

DIDN'T FIND WHAT YOU WERE I

SEARCH FOR IT HERE



All content & Copyright 2009 - 2013 Fox Television Stations, Inc. and WorldNow. All Rights Reserved.
[Privacy Policy](#) | [Terms of Service](#) | [Ad Choices](#)