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11 IN THE UNITED STATES DISTRICT COURT  
12 DISTRICT OF ARIZONA

13 United States of America,  
14 Plaintiff,  
15 vs.  
16 Thomas Mario Costanzo,  
17 Defendant

No. CR-17-0585-PHX-GMS  
**MOTION FOR BILL OF  
PARTICULARS**

18 Defendant Thomas Mario Costanzo, by and through undersigned counsel,  
19 respectfully moves this Court, pursuant to Rule 7(f) of the Federal Rules of Criminal  
20 Procedure and the inherent power of the United States District Courts, to order the  
21 Government to file a bill of particulars providing the Court and the defendant with the  
22 information described below regarding Counts 3, 4, 5, 6, and 7 of the First Superseding  
23 Indictment, and further moves the Court, pursuant to the Due Process Clause of the Fifth  
24 Amendment and the Sixth Amendment of the United States Constitution, to order the  
25 Government to provide notice of that same information.

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**FACTS**

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2 Count 3-7 of the present indictment charge Mr. Costanzo with the crime of  
3 Money Laundering Conspiracy 18 U.S.C. § 1956(a)(3)(B) (regarding funds represented  
4 by law enforcement to be the proceeds of a specified unlawful activity) and (a)(3)(C) (to  
5 avoid a transaction reporting requirement under state or federal law). Mr. Costanzo’s  
6 concern lies in the fact that the charges are silent with respect to what federal statutory  
7 transaction reporting requirement(s) he is alleged to have intended to avoid.

8 While the indictment does specify that the relevant transaction reporting  
9 requirement(s) are federal rather than state, there is otherwise no indication of what  
10 transaction reporting requirement(s) is/are alleged to have been avoided by Mr. Costanzo.  
11 This aspect of the indictment is thus insufficient to provide proper notice to properly  
12 prepare for trial, avoid surprise, and guard against double jeopardy. *United States v. Burt*,  
13 765 F.2d 1364, 1367 (9th Cir. 1985).

**ARGUMENT**

14 A bill of particulars “is intended to supplement the indictment by providing  
15 more detail of the facts upon which the charges are based.” *United States v. Inryco, Inc.*,  
16 642 F.2d 290, 295 (9th Cir. 1981). A bill of particulars serves three purposes: 1) to aid  
17 the defense in preparing for trial, 2) to eliminate surprise at trial, and 3) to protect against  
18 double jeopardy. *Burt*, 765 F.2d at 1367. While a motion for a bill of particulars must  
19 typically be filed within ten days of the arraignment, the motion may be made at a later  
20 time if the court permits. Fed. R. Crim. P. 7(f). It is customary in this jurisdiction for the  
21 government to consider the filing of defense motions (beyond motions to continue) as an  
22 indication that the matter will proceed to trial. It was hoped that the Grand Jury transcripts  
23 disclosed would elucidate this issue, but they too are silent on this matter.

24 Mr. Costanzo therefore requests the government be ordered to provide the  
25 defense with the following information critical to effective representation as to charges  
26 of violating 18 U.S.C. § 1956(a)(3)(C) in the present indictment: the applicable federal  
27  
28

1 transaction reporting requirement(s) Mr. Costanzo is alleged to have sought to avoid for  
2 each of the remaining counts of the present indictment.

3 **CONCLUSION**

4 Mr. Costanzo therefore requests that this Court order the Government to  
5 file a bill of particulars identifying the federal transaction reporting requirement(s) that  
6 Mr. Costanzo is alleged to have sought to avoid for each of the charged transactions in  
7 the present indictment, and further moves the Court to order the Government to provide  
8 notice of that same information.

9 It is expected that excludable delay under 18 U.S.C. § 3161(h)(1)(D) may  
10 occur as a result of this motion or from an order based thereon.

11 Respectfully submitted: January 19, 2018.

12 JON M. SANDS  
13 Federal Public Defender

14 s/ Maria Teresa Weidner  
15 MARIA TERESA WEIDNER  
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17 Copy of the foregoing delivered filing January 19, 2018, to:

18 CLERK'S OFFICE  
19 United States District Court  
20 Sandra Day O'Connor Courthouse  
21 401 W. Washington  
22 Phoenix, Arizona 85003

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Defendant

s/yc