

DISTRICT COURT, WELD COUNTY, COLORADO
Court Address: 915 10th Ave., Greeley, CO 80631
Mailing Address: P. O. Box 2038, Greeley, CO 80632
Phone Number: 970.351.7300

In re Search of Amalia's Translation and Tax Service;

and

Amalia Cerrillo,

Luis Noriega, on behalf of himself and as class representative,

John Doe, on behalf of himself and as class representative,

Frank Doe, on behalf of himself and as class representative,

Robert Doe, on behalf of himself and as class representative,

Plaintiffs,

v.

Kenneth R. Buck, in his official capacity as District Attorney for the Nineteenth Judicial District;

John Cooke, in his official capacity as Weld County Sheriff,

Defendants.

▲ COURT USE ONLY ▲

Case No. 2009CV100

Div. 1

**ORDER PENDING
DECISION ON MOTION FOR PRELIMINARY INJUNCTION**

On March 9-10, 2009, the Court heard evidence and argument on Plaintiffs' Motion for Preliminary Injunction. At the conclusion of the presentation, Defendant Buck requested additional time to brief issues raised during the course of the hearing. To provide the Parties an adequate opportunity to present all relevant law and argument, the Court granted the Defendants additional time to submit written briefs. Plaintiffs were also granted an opportunity to respond to any such supplemental written submissions. After considering supplemental submissions, the Court will rule on Plaintiffs' Motion for Preliminary Injunction in Court on April 13, 2009, at 10:30 a.m.

The Court asked the parties to propose an interim solution during the period of time between the conclusion of the hearing and the issuance of the Court's ruling after the submission of written briefs. Defendants offered the following proposal:

1. That Defendant Buck would suspend any Grand Jury proceedings relating to this matter;

2. That no additional arrest warrants would be issued and that no action would be taken by the Weld County Sheriff to execute on any outstanding arrest warrants relating to this matter;

3. That both Defendants would provide to the Court with the imaged hard drives of the computers and any other electronic media from Amalia's. Translation & Tax Services or otherwise isolate such information to preclude access to that information pending the Court's ruling.

The Court reserves ruling on Plaintiffs' Motion for Preliminary Injunction, the Court nonetheless will issue an interim order pending additional briefing and decision. The Court finds that the Plaintiffs made a sufficient showing in terms of irreparable harm and reasonable likelihood of success on the merits as a basis for entering this interim order.

For these and other reasons stated on the record in open court on March 10, 2009, it is **HEREBY ORDERED:**

1. That the District Attorney for Weld County and the Sheriff of Weld County shall, by 5:00 p.m., Friday, March 13, 2009 deliver to the custody of the Clerk of Court, all of the Materials at issue in this case. The Clerk of Court is directed to preserve the confidentiality and status of these Materials, store them, and keep them safe pending the outcome of this litigation.

2. "Materials" as used in the prior paragraph shall include,

a. All files seized from Amalia's Translation & Tax Services, and any copies (whether paper or electronic) of those files, including but not limited to copies retained in evidence by the Sheriff's Office or the District Attorney or in the possession, custody or control of any agent of either the Sheriff or the District Attorney.

b. All electronic media (including, but not limited to, computer disks, CDs, or hard drives), seized from Amalia's Translation & Tax Services, and any copies thereof.

c. Any and all evidentiary or investigative material and the fruits thereof derived from the files seized from Amalia's Translation & Tax Services, including, without limitation, investigative reports, notes, witness interviews, employment records obtained from third party employers, the results of computer searches from electronic databases, computer files, and any other information or evidence, in whatever form, derived directly or indirectly from the tax files seized from Amalia's Translation & Tax Services.

d. "Materials" shall not include any documents or files (paper or electronic) or the results thereof, relating to any individual who was charged with a criminal offense arising out of the search Operation Numbers Game as of 4:30 p.m. March 10, 2009.

3. The Defendants and their agents shall not, without further order of the Court, copy, reproduce, or disseminate the Materials to any third party, other than the Clerk of Court.

4. The Defendants and their agents shall not use the Materials in any form, or discuss the Materials or their contents in any manner with any third parties, without further order of the Court.

5. The Defendants and their agents shall not change the form of the Materials that are being turned over. In other words, if something is presently only in paper form, it should not be scanned or placed in a computer or placed on a CD. Material that is stored only in electronic form shall not be printed.

6. To whatever extent any of the Materials or information derived from the Materials were provided to any other agency, individual or entity, such as agencies of the United States, but remains under the control of the District Attorneys' Office or the Sheriff's Office, the Defendants are ordered to retrieve such Materials and turn them over to the Clerk.

7. To whatever extent that a Microsoft Access electronic database was created by the District Attorney's Office or Sheriff's Office from the Materials or investigation based on the Materials, and it is not technologically feasible to turn over the database to the Clerk as described above, the District Attorney and the Sheriff, respectively, shall take all necessary steps to protect and secure via a password or other means such database from access by any person (other than the District Attorney, Assistant District Attorney, and Sheriff or a single deputized designee), and the District Attorney, Assistant District Attorney and Sheriff shall not take any steps to access information contained in that database without a further order of the Court or a stipulation by the Parties.

8. It is further ORDERED, consistent with the stipulation offered in open court by counsel for the District Attorney on March 10, 2009 that:

a. All Grand Jury proceedings relating in any way to any materials from Amalia's. Translation & Tax Services cease until further order of the Court;

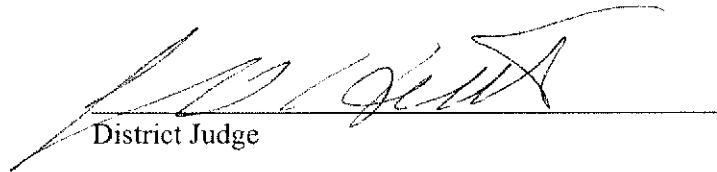
b. All affirmative steps to issue or execute on any arrest warrants already issued based on any Materials from Amalia's. Translation & Tax Services cease, until further order of the Court;

9. It is further ORDERED that the Defendants shall certify, via a filing with a Court by 5:00 p.m. March 13, 2009, their compliance with this Order. To whatever extent that computer technology prevents turning over or deletion of an electronic database, the Defendants shall certify and explain all steps taken to prevent access to and use of such databases consistent with the letter and spirit of this Order.

March 16, 2009

Time: 7:00 AM

BY THE COURT:


District Judge