

D L P LT13  
Elmer P. Vild, Trustee  
989 S. Main St., #A-269  
Cottonwood, AZ 86326  
Ph. (928) 634-5669  
E-Mail: [trustoneil@commspeed.net](mailto:trustoneil@commspeed.net)  
Elmer P. Vild is the Trustee for the  
D L P LT13 contractual entity.

**IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF ARIZONA**

United States of America,	)	
	)	Civil No. CV 09-00444-PHX-SRB
Plaintiff,	)	
	)	MOTION FOR SANCTIONS
v.	)	AGAINST PLAINTIFF
	)	
Maria D. Forman; Jimmy C. Chisum, and	)	
Elmer P. Vild, also known as Phillip	)	
O'Neil, as Trustees for the DLP LT 13	)	
Trust; and Arizona Department of	)	
Revenue	)	
	)	
Defendants.	)	

COMES NOW Elmer P. Vild, Trustee for the D L P LT13 contract in the form of a trust proceeding without the assistance of counsel relying on *Haines v. Kerner* and other U.S. Supreme Court decisions that hold pro se litigants cannot be held to the same standards as an attorney and the lower courts must point out any defects and allow a pro se litigant sufficient time to correct any defects. And, that the pro se litigants' pleadings are sufficient to call for an opportunity to be heard.

Rule 11 of the Federal Rules of Civil Procedure provides for sanctions. Below is part (b) and (b)(1) of Rule 11.

(b) **Representations to the Court.** By presenting to the court a pleading, written motion, or other paper—whether by signing, filing, submitting, or later advocating it—an attorney or unrepresented party certifies that to the best of the person’s knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

(1) “it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;” (emphasis added)

This Defendant has informed the Court that Maria D. Forman had been declared uncollectible by the Internal Revenue Service (IRS). The attorneys in this case knew or should have known that Maria D. Forman was declared indigent and uncollectible by the IRS. Maria D. Forman does not possess the knowledge or the money to defend herself in a lawsuit. Yet, the government’s attorneys went after her knowing her case was closed. What the government seems to have done is disgusting and against the rules of this court.

Defendant Maria D. Forman submitted paperwork for a Collection Due Process Hearing. She was informed by the government that it had determined that the appropriate resolution of ALL her income tax liabilities would be to report them as Currently Not Collectible with a closing code of 25 based on her current income. She had signed a Form 12257, Summary Notice of Determination, Waiver of Right to a Judicial Review of a Collection Due Process Determination, and a Waiver of Suspension of Levy Action. She was then informed by the government that her case was CLOSED and would be returned to Compliance for processing. See **Exhibits A and B**.

If Exhibits A and B hold true and her case was closed, then government has brought suit on a “closed” case. This makes the government attorneys subject to sanctions by this Court in accordance with Rule 11(b)(1). In addition, this suit will cost

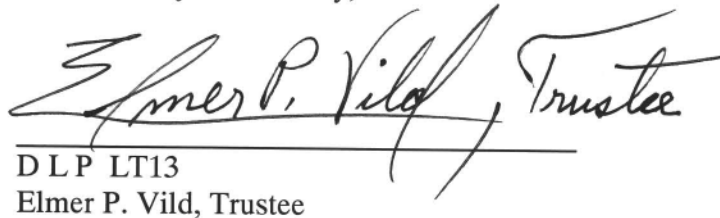
far more than the attorneys could ever expect to recover. Suing on a “closed” case for less money that can be recovered is the purest definition of harassment.

Either a person is collectible or they are not collectible. There is no middle ground. Maria D. Forman’s situation has not changed since she was declared uncollectible in 2008. The IRS has known about D L P LT13 for almost 20 years. D L P LT13 has been on public record as owning the subject real property of this lawsuit since May of 1990. To attempt to tie Maria D. Forman to a piece of real property she separated herself from almost 20 years ago is really attempting to stretch reality. But, to harass Maria D. Forman after informing her that because she waived her rights to a Due Process Hearing in order to be declared uncollectible is unthinkable. What do the words “This closes your case ...” mean when said by the IRS? We will sue you later, perhaps?

One thing seems a certainty. An organization who informs a “taxpayer” their case is over and closed cannot sue that same taxpayer for collection of the same taxes without the “knowledge” of attorneys and/or “real live bodies” behind the suit being punished in some fashion. This Defendant recommends the Court impose sanctions against the attorney(s) and others who instigated this instant lawsuit.

Above premises consider, Defendant requests this Court dismiss the instant case with prejudice and impose sanctions against those involved in bringing suit against Maria D. Forman that the IRS has declared “uncollectible” and her case “closed”.

Respectfully submitted this 16<sup>th</sup> day of February, 2010.

 Elmer P. Vild, Trustee  
D L P LT13  
Elmer P. Vild, Trustee

# Summary Notice of Determination, Waiver of Right to Judicial Review of a Collection Due Process Determination, and Waiver of Suspension of Levy Action

Taxpayer Name(s): HOWARD E & MARIA D FORMAN

Address: 5640 E DUANE LANE, CAVE CREEK, AZ 85331-6492

Type of Tax/Tax Form: Income/1040 / 1040

Tax Period(s): 12/31/2003 and 12/31/2004

Social Security/Employer Identification Number(s): 527-18-1305, 526-08-0302

This waiver concerns the following Collection Due Process (CDP) Notice(s):

Notice of Federal Tax Lien Filing and Your Right to a Hearing (IRC Section 6320)

Notice of Intent to levy and Your Right to a Hearing (IRC Section 6330)

I understand that IRC Sections 6320 and 6330 require the Office of Appeals to issue a Notice of Determination after a CDP Hearing. Those sections also allow me 30 days to file a lawsuit with the appropriate court if I disagree with Appeals' determination.

During that 30-day period and during any lawsuit filed during that 30-day period requesting review of the Appeals determination, the IRS may not levy to collect the taxes at issue.

I agree that the Appeals determination shown below, as a summary Notice of Determination is appropriate and correct. I also knowingly and voluntarily waive the following rights:

- I waive my right under Sections 6320 and 6330 to request judicial review within 30 days of an Appeals Notice of Determination.
- I waive the 30-day suspension of levy action described in section 6330(e)(1).

I understand that once I sign this waiver, and Appeals signs the Summary Notice of Determination, the suspended statutes of limitations on collection, and other suspended statutes referred to in section 6330(e), will resume.

If, in accordance with the Appeals' determination, I entered into an offer in compromise, installment agreement, or other collection alternative, I understand that the IRS won't levy my property so long as I comply with the terms of the Appeals determination, unless levy action is part of the Appeals determination. If I fail to abide by the terms of the Appeals' determination, the IRS may begin other collection actions, including the filing of a lien, a levy, or both.

I don't waive my right under Appeals' retained jurisdiction to receive another hearing with Appeals if I disagree with the IRS over how it followed the Appeals determination.

*EXHIBIT "A"; PAGE 1 of 2.*

I don't waive my right to return to Appeals for another hearing if my circumstances change. I understand that I must first exhaust my administrative remedies before I request the hearing.

I don't give up any other administrative appeal rights I'm entitled to, such as appeal rights under the Collection Appeals Program (CAP).

Taxpayer Signature

Date

*Maria Forman*

*6-21-08*

Spouse's Signature (If applicable)

Date

*Bob A. Forman for Howard Forman and*

*6-25-08*

Signature of Taxpayer's Authorized Representative (If Applicable)

*2848*

Date

Summary Notice of Determination:

Appeals has verified whether applicable laws and administrative procedures have been met, has considered the issues raised, and has balanced the proposed collection action with the legitimate concerns that such action be no more intrusive than necessary as required by IRC Section 6330(c)(3).

The determination of Appeals is: Your income tax liabilities for years 2003 and 2004 will be placed in Currently Not Collectible with a Closing Code of 25 based on your current income.

Settlement Officer James Wood has had no prior involvement with this Taxpayer for these income tax periods before this CDP case.

*[Signature]*

Team Manager, Office of Appeals

*7/28/08*

Date

**Internal Revenue Service**

Appeals Office  
210 East Earll Drive  
MS 8000 PX  
Phoenix, AZ 85012

**Department of the Treasury**

**Person to Contact:**

James Wood  
Employee ID Number: 86-16466  
Tel: 602-207-8170  
Fax: 602-207-8116

Date: AUG 06 2008

**Refer Reply to:**

AP:FW:PHX:JWW

**In Re:**

Collection Due Process - Levy

**Tax Period(s) Ended:**

12/31/2003 12/31/2004

HOWARD E & MARIA D FORMAN  
5640 E DUANE LANE  
CAVE CREEK AZ 85331-6492

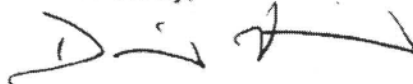
Dear Mrs. Forman:

This letter is in regards to your Collection Due Process Hearing that you requested that pertained to the Service's proposed levy action against your assets for the income tax periods shown above.

It has been determined that the appropriate resolution of all of your income tax liabilities would be to report them as Currently Not Collectible with a closing code of 25 based on your current income. You signed Form 12257, Summary Notice of Determination, Waiver of Right to a Judicial Review of a Collection Due Process Determination, and a Waiver of Suspension of Levy Action. This closes your case and your case will be returned to Compliance for processing.

If you have any other questions or concerns please call James Wood at the above telephone number. Thank you for your cooperation.

Sincerely,



David J Villaverde  
Appeals Team Manager

Enclosures:  
Form 12257

cc: Gregory A Robinson

EXHIBIT "B"

## CERTIFICATE OF SERVICE

This document has been submitted into the court record as evidence by Terry I. Major, Notary Public, in and for the state of Arizona, County of Yavapai. My stamp is attached to identify me and my commission.

Original for the Clerk of the Court and one copy for the Honorable Susan R. Bolton mailed this 16<sup>th</sup> day of February, 2010 via first class mail to:

Clerk of the Court  
Sandra Day O'Connor U.S. Courthouse  
SPC 1  
401 W. Washington Street, Suite 130  
Phoenix, AZ 85003-2118

Copies mailed this 16<sup>th</sup> day of February, 2010 via first class mail to:

DIANE J. HUMETEWA  
United States Attorney  
District of Arizona  
Evo A. DeConcini Courthouse  
405 West Congress St., Suite 4800  
Tucson, Arizona 85701-5040

ALEXIS V. ANDREWS  
Trial Attorney, Tax Division  
U.S. Department of Justice  
P.O. Box 683, Ben Franklin Station  
Washington, D.C. 20044-0683

Maria D. Forman  
5640 East Duane Lane  
Cave Creek, Arizona 85331-6492

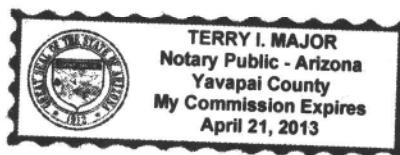
Jimmy Chisum, 84388-008  
FCI Herlong, Satelite Camp  
P.O. Box 800  
Herlong, CA 96113

DENISE ANN FAULK  
Assistant Attorney General  
1275 West Washington St.  
Phoenix, AZ 85007-2926

State of Arizona     )  
                                  ) ss.  
County of Yavapai    )

{Seal}

This document has thus been served.



*Terry I. Major*  
\_\_\_\_\_  
Terry I. Major, Notary Public