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

11 United States of America,

12 Plaintiff,

13 v.

14 Maria D. Forman et al.,

15 Defendants.

Civil No. 09-CV-444-PHX-SRB

UNITED STATES' RESPONSE IN  
OPPOSITION TO DEFENDANT  
JIMMY C. CHISUM'S MOTION TO  
DISMISS FOR FAILURE TO  
PROSECUTE

16  
17 The United States of America, through undersigned counsel, hereby responds to  
18 Defendant Jimmy C. Chisum's Motion to Dismiss for Failure to Prosecute (Doc. No. 79)  
19 as follows:

20 Defendant Chisum argues that the United States' claim should be dismissed  
21 because it failed to respond to his contention – in his Answer (Doc. No. 13), not a proper  
22 Motion to Dismiss under Federal Rule of Civil Procedure 12(b) – that the Court lacks

1 jurisdiction over the case. However, Defendant Chisum – like Defendant DLP LT 13 –  
2 failed to articulate any meaningful challenge to the jurisdictional basis for this case,  
3 clearly set forth as required in both the Complaint and the Amended Complaint. *See*  
4 Compl. ¶¶2-3; Am. Compl. ¶¶2-3. Instead, he appears to argue that federal district  
5 courts can never have jurisdiction over cases involving the contract and property rights  
6 of individuals. (See Doc. No. 13 at 1). He does not raise any “facts which would cause  
7 this Court to question its jurisdiction.” *See* Order dated Feb. 5, 2010 (Doc. No. 61). As  
8 such, no response from the government is required, and the Motion to Dismiss for  
9 Failure to Prosecute should be denied. *Id.*

10 For the foregoing reasons, the United States respectfully requests that Defendant  
11 Jimmy C. Chisum’s Motion to Dismiss for Failure to Prosecute (Doc. No. 79) be denied.

12 Respectfully submitted this 9th day of April, 2010.

13 DENNIS K. BURKE  
14 United States Attorney

15 By: /s/ Alexis V. Andrews  
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**CERTIFICATE OF SERVICE**

It is hereby certified that service of the foregoing UNITED STATES' RESPONSE IN OPPOSITION TO DEFENDANT JIMMY C. CHISUM'S MOTION TO DISMISS FOR FAILURE TO PROSECUTE has been made this 9th day of April, 2010, by placing copies in the U. S. Mail addressed to the following:

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