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9

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; Jimmy C. Chisum, as
Trustee for the DLP LT 13 Trust; and
15 Arizona Department of Revenue,

16 Defendants.
17

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

UNITED STATES' RESPONSE TO
ORDER TO SHOW CAUSE

18 The United States of America, through undersigned counsel, hereby responds to
19 the Court's Order to Show Cause (Doc. No. 33) as follows:

20 As stated in the United States' Motion to Strike Defendant DLP LT 13 Trust's
21 Answer and Motion to Dismiss (Doc. No.36), the Motion to Dismiss was improperly
22 filed on DLP LT 13's behalf by Trustee Elmer P. Vild, a *pro se* litigant. However, as a

1 *pro se* litigant, Trustee Elmer P. Vild is not authorized to represent parties other than
2 himself, and the Motion to Dismiss should be stricken from the record. *See, e.g., Simon v.*
3 *Hartford Life, Inc.*, 546 F.3d 661, 664-65 (9th Cir. 2008).

4 Furthermore, none of the arguments proffered in the Motion to Dismiss have any
5 basis in law. Despite Trustee Elmer P. Vild's claim that the Complaint and Amended
6 Complaint in this case were not signed (Mot. to Dismiss. at 1-2), both the original
7 Complaint (Doc. No. 1) and the Amended Complaint (Doc. No. 12) bear the required
8 signature. Fed. R. Civ. P. 11(a) and L.R. Civ. 5.5(g). DLP LT 13 Trust's "belief" that
9 "there is no legal lawsuit before this Court" (Mot. to Dismiss at 2) is not a legal basis for
10 dismissal.

11 Trustee Elmer P. Vild also takes issue with the naming of the United States as
12 Plaintiff in this case and appears to argue that an entity may not be a party. (Mot. to
13 Dismiss at 1-2). He offers no authority whatsoever for this startling assertion.
14 However, to the extent that Trustee Elmer P. Vild seeks information about potential
15 witnesses and deponents, the United States is required to disclose this information in
16 the course of discovery. Fed. R. Civ. P. 26. The information sought by Trustee Elmer P.
17 Vild is thus properly acquired through the course of discovery and not by way of a
18 Motion to Dismiss or an order to "identify all live body complainants."

19 For the foregoing reasons, the Motion to Dismiss should not be granted.
20
21
22

1 Respectfully submitted this 28th day of December, 2009.

2 DENNIS K. BURKE
3 United States Attorney

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

12 It is hereby certified that service of the foregoing UNITED STATES' RESPONSE
13 TO ORDER TO SHOW CAUSE has been made this 28th day of December, 2009, by
14 placing copies in the United States Mail addressed to the following:

15 Maria D. Forman
16 c/o 5640 E. Duane Lane
17 Cave Creek, AZ 85331

18 Denise Ann Faulk
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