

D L P LT13
Elmer P. Vild, Trustee
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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,)
)
 Plaintiff,)
)
 v.)
)
 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.)
)

Civil No. CV 09-00444-PHX-SRB

MOTION TO DISMISS FOR
HARASSMENT AND LACK OF FACTS

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.

Regarding motions brought to the Court, Rule 11(b) (1) of the Federal Rules of Civil Procedure forbids an attorney from bringing a lawsuit and/or motions for the purposes of harassment. Rule 11(b)(2) and (3) forbids bringing an action that is not warranted or for which

there are no factual contentions nor have evidentiary support, etc. In the instant case against the Defendant D L P LT13, the Plaintiff has not produced one fact that supports the Plaintiff's "theory" in its boiler plate lawsuit that D L P LT13 is a nominee or alter ego of anyone. The Plaintiff's entire case, thus far, consists of only allegations that the Plaintiff believes "this or that", but NO FACTS or hard evidence has been presented. Where are the documents to prove any allegation against D L P LT13 by the Plaintiff?

This lawsuit is going to cost the Plaintiff more that can be recovered even if the Plaintiff were to win this lawsuit and have to pursue the other legal remedies needed to sell D L P LT13's assets. Suing for less than the cost of the lawsuit can only mean one thing: HARASSMENT, pure and simple. This Defendant is planning on going to Congressmen and Congress against the Plaintiff. The Defendant cannot just name the United States of America as the Plaintiff but needs to be informed of all the live bodies behind this lawsuit. This Defendant intends to bring charges for harassment and other misdeeds by the live bodies that are behind this lawsuit. The United States Constitution absolutely guarantees that the Defendant is entitled to be informed of all live body Plaintiffs in order to pursue legal remedies against him/her/them BEFORE going any further with the instant proceedings.

In reference to the cost of the lawsuit, over \$4,000 was paid (See **Exhibit A**) by a beneficiary of D L P LT13 towards the money the Plaintiff *claims* is owed by the Defendant, Maria D. Forman. This brings the alleged Plaintiff's claim to less than \$25,000. Even if Maria D. Forman were to *actually* owe the Internal Revenue Service (IRS) the monies claimed (now somewhere around \$24,000) they could not collect because the IRS is barred by law. E.g. Property has been transferred into a "private, contractual entity" by a taxpayer who subsequently has an assessment of tax placed against him, is not subject to the tax assessment or any government consequences.

“Property does not belong to a taxpayer and thus is not subject to lien and levy if it has been transferred before the tax assessment.” See, e.g., *Wagner v. United State*, 573 F.2d 447 (7th Cir. 1978); *Sisk v. United States*, 61-1 USTC [CCH] 9476 (N.D. Okl. 1961)” *St. Louis Union Trust Co. v. United States*, 617 F.2d 1293, 1301 (8th Cir. 1980).

Therefore, the Plaintiff cannot take property belonging to D L P LT13 for someone else’s (Maria D. Forman) alleged taxes.

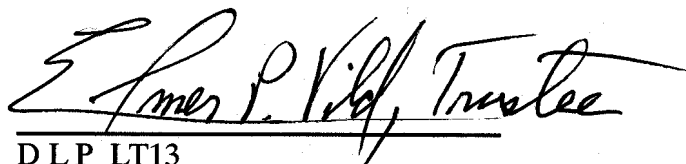
The Plaintiff’s argument of a fraudulent transfer (where the Plaintiff quoted Arizona State law) does not apply. Arizona law clearly states that the Plaintiff’s claim is barred by the statute of limitations, not to mention several other impediments to the Plaintiff’s claim.

The Plaintiff has claimed that the D L P LT13 is the nominee or alter ego of Howard and Maria Forman because the Plaintiff must have known how unviable the other claims were. The Plaintiff is on a “fishing trip” lawsuit to see if the Plaintiff can support the claim of nominee/alter ego. As stated above, the transfer of the real property the Plaintiff seeks was transferred into D L P LT13 before any of the assessments that are at issue here. “Fraudulent Transfer” does not apply. D L P LT13 requests this Court dismiss the instant suit in its entirety.

In accordance with the rules of court, the Plaintiff has failed to produce evidence that D L P LT13 is a nominee or alter ego and the Court should dismiss the instant case against D L P LT13 “with prejudice”.

Therefore, all of the foregoing considered, D L P LT13 moves this Court to dismiss the instant suit against D L P LT13 immediately and if appropriate, dismiss the instant case against Maria D. Forman who the IRS has declared “uncollectible”.

Executed this 8th day of January, 2010.



D L P LT13
Elmer P. Vild, Trustee

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 8th day of January, 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 8th day of January, 2010 via first class mail to:

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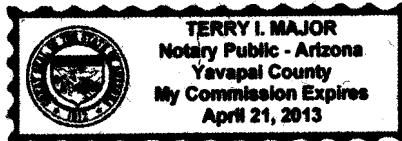
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State of Arizona)
) ss.
County of Yavapai)

{Seal}

This document has thus been served.




Terry I. Major, Notary Public

