

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

RESPONSE TO UNITED STATES'
MOTION TO STRIKE DEFENDANT
DLP LT13'S SECOND MOTION TO
DISMISS, THIRD MOTION TO DISMISS
AND DEMAND FOR JUDGE WITHOUT
CONFLICT OF INTEREST

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.

The Plaintiff's UNITED STATES' MOTION TO STRIKE DEFENDANT D L P LT13'S SECOND MOTION TO DISMISS, THIRD MOTION TO DISMISS AND DEMAND FOR JUDGE WITHOUT CONFLICT OF INTEREST (hereafter called MOTION TO STRIKE) does not address the facts of this case and is off point. To its detriment, the Plaintiff did not address each of D L P LT13's motions individually. Plaintiff's only point of law, submitted to the Court, is that Elmer P. Vild is attempting to represent another party. He is not. Elmer P. Vild is representing Elmer P. Vild as part of the Contractual Entity known as D L P LT13 and the United States Constitution gives him that right and forbids infringement by others. The "others" would include the Plaintiff. On Page 2, Lines 12, 13 and 14 of Plaintiff's MEMORANDUM IN SUPPORT..., it states: "He [Elmer P. Vild] has no authority to appear as an attorney for others than himself." *C.E. Pope Equity Trust v. U.S.*, 818 F.2d 696, 697 (9th Cir. 1987) (citations omitted)."

Plaintiff's memorandum of law deals with statutes. The Defendant is relying on the United States Constitution which supersedes Plaintiff's law theories. As a contractual party to D L P LT13, Elmer P. Vild is the real party in interest. Indeed, the only one with the contractual right to defend D L P LT13 is Elmer P. Vild! Is Plaintiff suggesting that there is no RIGHT to defense? This instant case is set apart from the Plaintiff's memorandum of law. This Defendant may subsequently address the trust representation issue, but only AFTER the Plaintiff proves, with facts, that D L P LT13 is not a contract protected by the United States Constitution, but is nothing more than the same type of trusts that are quoted in Plaintiff's memorandum. However, the jurisdiction issue must be settled prior to the attorney representation issues.

NO FACTS were submitted to prove that D L P LT13 is a trust, nor were FACTS submitted to prove "jurisdiction" so the Court could rule on the issues. Not one document! Even

if the Plaintiff quoted memorandums of law on “trusts” until he is “blue in the face” the axiom of law stands: No facts submitted, Plaintiff has no case! This is true for both Plaintiff’s arguments on legal representation for a trust as well as the Court having jurisdiction to make a ruling. Plaintiff has submitted no facts to prove jurisdiction or that D L P LT13 is a trust and, therefore, the Court should deny Plaintiff’s motions and responses to Defendant’s motions based on these facts.

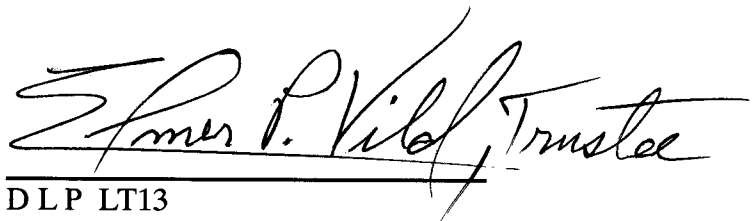
D L P LT13 is a contract first and foremost, and Elmer P. Vild is party to that Contract with the contractual designation of Trustee as defined in the entity’s definition of terms to be used in all decisions regarding D L P LT13. Elmer P. Vild has every right to defend D L P LT13 as the Real Party in Interest for the contract if the controlling instruments of the contractual entity allow it. The United States Constitution’s Article I, Section X basically states that the individual’s “right to contract” shall not be infringed upon. It stands to reason that any Court, therefore, cannot rule upon a Contract it has not seen nor read it. Even clearer, is the fact that a Court cannot rule that an entity, and the written instruments which define it, is a “trust” when neither the Court nor the prosecuting party have read the entity’s documents. Remember, the law is and remains that “titles” do not define an “entity” but only the verbiage in the written documents does so.

The Plaintiff, without presenting any facts, wants this Court to rule on its motion(s) to strike all of this Defendant’s motions and pleadings. Additionally, by responding to Defendant’s other motions/pleadings with the same tired argument, it seems that the Plaintiff wants the Court to show bias and prejudice by ruling on Plaintiff’s motion(s) before ruling on Defendant’s motions and pleadings. Plaintiff wants this accomplished before ruling on jurisdiction or whether D L P LT13 is a contractual entity or a “trust” like those quoted by the Plaintiff.

Arguendo, even if the Court were to grant Plaintiff's MOTION TO STRIKE, etc. Defendant Maria D. Forman might be persuaded to come off her medications long enough to raise the same issue. Further, D L P LT13 could hire a "lawyer" to promulgate the same "jurisdictional" and "contract versus trust" issues, therefore what has the Plaintiff gained? More harassment of Maria D. Forman and D L P LT13 and more cost to the people of the United States of America? This Defendant shall make certain that this issue will not go away and therefore, it needs to be addressed now, in the interest of justice, and with less cost to everyone. Since jurisdiction was raised by the Defendant long before Plaintiff's motions and objections, higher courts may not look favorably on this issue remaining unaddressed. Additionally, it should be crystal clear that jurisdiction must be settled before all else. Plaintiff has not addressed the jurisdictional issue and must be expecting this Court to back Plaintiff whether the Court has jurisdiction or not.

Defendant prays and moves the Court to deny UNITED STATES' MOTION TO STRIKE DEFENDANT D L P LT13'S SECOND MOTION TO DISMISS, THIRD MOTION TO DISMISS AND DEMAND FOR JUDGE WITHOUT CONFLICT OF INTEREST.

Executed this 19th day of January, 2010.

A handwritten signature in black ink that reads "Elmer P. Vild, Trustee". The signature is written in a cursive style and is positioned above a horizontal line.

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 19th 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 19th day of January, 2010 via first class mail to:

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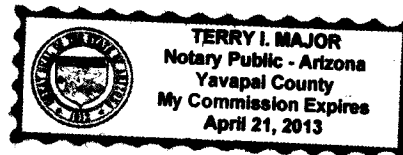
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State of Arizona)
) ss.
County of Yavapai)

{Seal}

This document has thus been served.




Terry I. Major, Notary Public