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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 et al.,
15 Defendants.

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

UNITED STATES'
RESPONSE TO MOTION
TO COMPLY WITH RULE 17

16
17 The United States of America, through undersigned counsel, hereby responds to
18 Trustee Elmer P. Vild's Motion to Comply with Rule 17 (Doc. No. 65) as follows:

19 In its prior motions and responses, the United States has objected to Elmer P.
20 Vild's purported representation of DLP LT 13.¹ However, regardless of whether Elmer

21 _____
22 ¹ United States' Motion to Strike Defendant DLP LT 13 Trust's Answer and Motion to Dismiss (Doc. No. 36) and United States' Motion to Strike Defendant DLP LT 13's Second Motion to Dismiss, Third Motion to Dismiss, and Demand for Judge Without Conflict of Interest (Doc. No. 41).

1 P. Vild has an interest in this matter or an interest in DLP LT 13, he cannot represent
2 Defendant Maria D. Forman and has no standing to request the appointment of a
3 guardian ad litem on her behalf. *See, e.g., Simon v. Hartford Life, Inc.*, 546 F.3d 661, 664-65
4 (9th Cir. 2008).

5 Elmer P. Vild further erroneously argues that the mere assertion of incompetence
6 by a lay individual is sufficient to warrant the appointment of a guardian ad litem.
7 Elmer P. Vild has not established that a guardian ad litem is necessary in this case nor
8 that he is in a position to properly argue this point.²

9 For the foregoing reasons, the United States opposes the Motion to Comply with
10 Rule 17.

11 Respectfully submitted this 3rd day of March, 2010.

12 DENNIS K. BURKE
13 United States Attorney

14 By: /s/ Alexis V. Andrews
15 ALEXIS V. ANDREWS
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18 Ben Franklin Station
19 Washington, D.C. 20044

20 Attorneys for the United States

21 ² Counsel for the United States contacted Defendant Forman's daughter—Dulce Shimkus—and advised her of
22 possible sources of low or no cost legal assistance in the Phoenix area. Counsel for the United States has also
received from Defendant Forman a letter authorizing counsel to discuss the case with Ms. Shimkus, though
Defendant Forman explicitly did not authorize Ms. Shimkus to make decisions on her behalf.

CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing UNITED STATES' RESPONSE TO MOTION TO COMPLY WITH RULE 17 has been made this 3rd day of March, 2010, by placing copies in the United States Mail addressed to the following:

Maria D. Forman
c/o 5640 E. Duane Lane
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/s/ Alexis V. Andrews
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