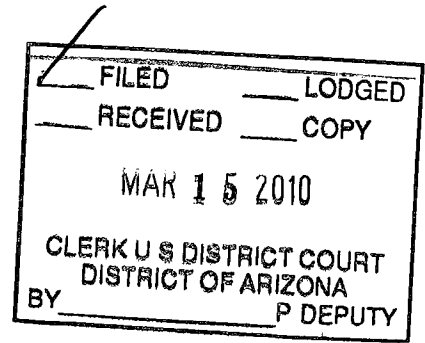


D L P LT13  
Elmer P. Vild, Trustee  
989 S. Main St., #A-269  
Cottonwood, AZ 86326  
Ph. (928) 634-5669  
E-Mail: [trustoneil@commspeed.net](mailto:trustoneil@commspeed.net)  
Elmer P. Vild is the Trustee for the  
D L P LT13 contractual entity.



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

United States of America,	)	
	)	Civil No. CV 09-00444-PHX-SRB
Plaintiff,	)	
	)	REPLY TO UNITED STATES'
v.	)	RESPONSE IN OPPOSITION TO
	)	MOTION FOR SANCTIONS
Maria D. Forman; Jimmy C. Chisum, and	)	AGAINST PLAINTIFF
Elmer P. Vild, also known as Phillip	)	
O'Neil, as Trustees for the DLP LT 13	)	
Trust; and Arizona Department of	)	
Revenue	)	
	)	
Defendants.	)	

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.

Plaintiff claims not to understand Defendant's basis for the Motion for Sanctions. Plaintiff wants a "legal basis" to be explained to Plaintiff and states that this Defendant

(D L P LT13) “appears to argue that the United States brought this suit in violation of an agreement with Defendant Maria Forman.” Exactly! I commend the government’s observation. Then the United States’ attorney goes on to tell us all about an offer and compromise. Nonsense! Why would someone who was told their case was “closed” by the IRS be interested in an offer and compromise? An offer and compromise is completely off point and the United States knows it to be so. The United States is only attempting to draw attention away from the true issues at hand. The IRS stated that the case was “closed” due to Maria Forman’s actions and circumstances. That is what is controlling in the instant case.

Maria Forman was declared to be “uncollectible” by the United States and more specifically the Internal Revenue Service (IRS). The IRS does not make an “offer-in-compromise” if you are indigent and uncollectible because, of course, a taxpayer would have nothing to “offer” to settle the alleged debt. The Plaintiff’s argument regarding an offer and compromise after a case is closed is ludicrous. Common sense should prevail in that argument. The settlement and “closed case” was made after the IRS determined that Maria Forman had no assets that could be reached by the IRS.

This Defendant does not understand just what part of “uncollectible” and “closed case” the Plaintiff does not understand. If Maria Forman owned anything she would be collectible and not “uncollectible”, but the IRS clearly made a decision to close her case. Further, the IRS assured Maria Forman that her case was closed and left her alone until this instant lawsuit which may have been instigated by a disgruntled government employee. This is another reason why all live body Plaintiffs must be disclosed.

In Exhibit B that Defendant D L P LT13 submitted in its Motion for Sanctions, it is clearly stated by the IRS “It has been determined that the appropriate resolution of all of your income tax liabilities would be to report them as Currently Not Collectible ... **...This closes your case** and your case will be returned to Compliance for processing”. (emphasis added) “Closed” to most people means closed. Not “we are telling you your case is closed” but “someone or some IRS agent” may tell our attorney(s) to sue you later. Why? What has changed from when Maria Forman was declared “uncollectible” because she owned nothing then or now? She still owns nothing of value today.

The United States is attempting to come after D L P LT13 for someone else’s taxes which have nothing to do with D L P LT13. The IRS has known for twenty years that D L P LT13 owned the subject property in question and Maria Forman had no claim against the property. This Defendant believes that someone decided to harass Maria Forman and/or this Defendant. And, that someone must be exposed. Live bodies behind a lawsuit must be disclosed immediately and not in discovery. To do otherwise defies common sense and justice which this Court should endorse.


In the first footnote at the bottom of Plaintiff’s page two, Plaintiff states that “He [this Defendant] now appears to be “representing” Defendant Forman in clear violation of the prohibition against non-attorney representation.” (cite omitted) This Defendant, as a free born human being, has a right to contract and defend D L P LT13 in Court. The United States Constitution, Article I, Section X guarantees that neither the IRS nor the United States shall interfere with that contract. This Court has sworn an oath to uphold and defend that contract. This supersedes anything that the Plaintiff has quoted thus far.

Whether Maria D. Forman owed any money for taxes is not the main concern of this Defendant. Defendant D L P LT13 is contractually authorized to defend D L P LT13 and look after our interests.

However, the Plaintiff filed the instant suit on an issue that the IRS considered "closed". The Court should take note that Plaintiff DID NOT DISPUTE THIS FACT in Plaintiff's response. Instead, the Plaintiff only addresses the "option" of offer and compromise which was not an issue and had no reason to be addressed after someone is declared "uncollectible". Since the motion was not addressed by the Plaintiff, this Defendant sees no recourse for the Court but to grant sanctions against the Plaintiff's lawyers who sued on a closed issue.

The United States attorney(s) have brought suit in a case that the IRS considered "uncollectible" and "closed". The attorney(s) should be sanctioned for their actions. Exhibit B of the Motion for Sanctions clearly states the issue is closed and Plaintiff did not dispute that fact in their response. The Court has the power to sanction legal counsel that wastes the Court's time and causes undue expense over issues that have settled. Exhibit B clearly demonstrates the issue was settled and closed. Defendant requests that the Court order sanctions against the United States attorney(s) as the Court sees fit.

Respectfully submitted this 12<sup>th</sup> day of March, 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 12<sup>TH</sup> day of March, 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 12<sup>TH</sup> day of March, 2010 via first class mail to:

DIANE J. HUMETEWA  
United States Attorney  
District of Arizona  
Evo A. DeConcini Courthouse  
405 West Congress St., Suite 4800  
Tucson, Arizona 85701-5040

ALEXIS V. ANDREWS  
Trial Attorney, Tax Division  
U.S. Department of Justice  
P.O. Box 683, Ben Franklin Station  
Washington, D.C. 20044-0683

Maria D. Forman  
5640 East Duane Lane  
Cave Creek, Arizona 85331-6492

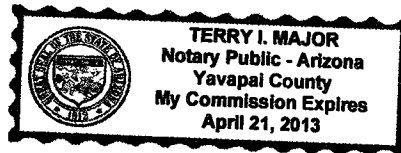
Jimmy Chisum, 84388-008  
FCI Herlong, Satelite Camp  
P.O. Box 800  
Herlong, CA 96113


DENISE ANN FAULK  
Assistant Attorney General  
1275 West Washington St.  
Phoenix, AZ 85007-2926

State of Arizona     )  
                                  ) ss.  
County of Yavapai    )

{Seal}

This document has thus been served.



  
Terry I. Major, Notary Public