

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

REPLY TO UNITED STATES'
RESPONSE TO MOTION TO
COMPLY WITH RULE 17

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.

This Defendant was astonished with the Plaintiff weak response to Defendant's Motion to Comply with Rule 17. What is truly amazing is that the Plaintiff "wants their

cake and eat it too” as the saying goes. Plaintiff’s suit claims that this Defendant is Maria D. Forman’s nominee and alter-ego. In Black’s law dictionary (Fifth Edition) nominee means “One designated to act for another in his or her place.” And, alter ego means “Second self”. In the instant lawsuit the Plaintiff attempts to demonstrate that D L P LT13 acts on behalf of Maria D. Forman and at her direction all the time and the two are one and the same. But, suddenly the Plaintiff now claims that D L P LT13 has no “standing” and is completely separate from Maria D. Forman. A nominee or alter ego can act on behalf of another. Plaintiff should make up their mind. Plaintiff wants D L P LT13 to be declared a nominee/alter ego acting on behalf of Maria D. Forman, but in Plaintiff’s response to Defendant’s Motion to Comply With Rule 17, Plaintiff argues there is no connection between the two. What kind of reasoning is that?

Elmer P. Vild is D L P LT13 via contractual agreement and acts for D L P LT13 and his own interests in that contract as is authorized in Rule 17(a)(1)(F). This Court knows that and has been hesitant to rule otherwise.

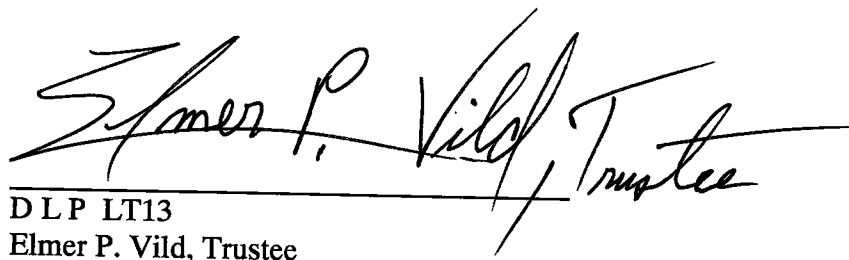
However, one of the main purposes of the said motion is to place the issue on the record for the second time no matter why or how the information was raised during the lawsuit. The record now reflects that the Court is firmly placed on notice that Maria D. Forman’s alleged incompetence must be acted upon by the Court to insure justice.

Plaintiff is correct that it is not the responsibility of this Defendant to enforce Rule 17 regarding Maria D. Forman’s limitations. It is the Court’s responsibility to insure Rule 17 is enforced. It was put on the record by Maria D. Forman’s daughter and no one did anything to comply with Rule 17. Now it has been formally raised by this Defendant and something should be done or there may be subsequent consequences.

Plaintiff attempts to utilize a footnote (footnote #2 on page 2) in its response brief to demonstrate that some assistance is being offered to the Defendant Maria D. Forman through Ms. Forman's daughter who has no authority to act on behalf of her mother. In any case, this Court has been made aware of Maria D. Forman's condition and Rule 17 tasks the Court with looking into and solving the problem. Specifically, Rule 17(c)(2) which states "The **court must** appoint a guardian ad litem—or issue another appropriate order—to protect a minor or incompetent person who is unrepresented in an action." (emphasis added) This Defendant and Maria D. Forman's daughter has made the Court fully aware of the situation in order that it must be addressed.

The Plaintiff argues that the Defendant is only making assertions. So? But if the assertions are true, and Maria D. Forman is incompetent, she cannot bring the issue up herself or defend herself. One would think that this alone would mean a mistrial. The Court should investigate the issue before making any ruling. Therefore, Defendant requests that the Court make certain that this lawsuit complies with Rule 17.

Respectfully submitted this 12th day of March, 2010.


DLP 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 12TH 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 12TH day of March, 2010 via first class mail to:

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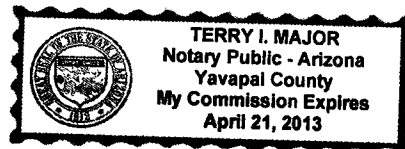
Jimmy Chisum, 84388-008
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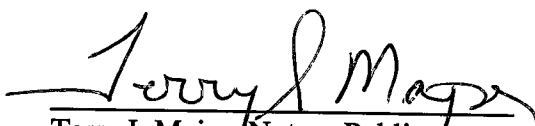
DENISE ANN FAULK
Assistant Attorney General
1275 West Washington St.
Phoenix, AZ 85007-2926

State of Arizona)
) ss.
County of Yavapai)

{Seal}

This document has thus been served.




Terry I. Major, Notary Public