

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 CONTINUE

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 is not always at one of his addresses in Arizona and has on several occasions notified the Internal Revenue Service (IRS) that he needs thirty (30)

days to respond to inquires. With that in mind, it was just recently that this Defendant received this Court's ORDER SETTING RULE 16 SCHEDULING CONFERENCE. The May 3, 2010 meeting requires that all parties meet at least 21 days before the scheduling conference. That would require a meeting before April 12, 2010. Maria D. Forman is in Mexico and this Defendant believes her daughter holds her mail for her. Maria D. Forman will probably not even know of the meeting and even if she does will probably not be able to make arrangements to return to the states to attend.

This Defendant seeks to have the Rule 16 meetings postponed. In asking this Court for a delay to prepare for the upcoming required pretrial conference meetings this Defendant would like to bring the Court's attention to the following Judicial Notice submitted by this Defendant.

All officers of this Court are hereby placed on notice under authority of the supremacy and equal protection clauses of the United States Constitution and the common law authorities of *Haines v Kerner*, 404 U.S. 519, *Platsky v. C.I.A.* 953 F.2d. 25 and *Anastasoff v. United States*, 223 F.3d 898 (8th Cir. 2000) relying on *Willy v. Coastal Corp.*, 503 U.S. 131, 135 (1992), "*United States v. International Business Machines Corp.*, 517 U.S. 843, 856 (1996), quoting *Payne v. Tennessee*, 501 U.S. 808, 842 (1991) (Souter, J., concurring). *Trinsey v. Pagliaro*, D.C. Pa. 1964, 229 F. Supp. 647, *American Red Cross v. Community Blood Center of the Ozarks*, 257 F.3d 859 (8th Cir. 07/25/2001). In re *Haines*: pro se litigants (Defendant is not an attorney) are held to less stringent pleading standards than BAR registered attorneys. Regardless of the deficiencies in their pleadings, pro se litigants are entitled to the opportunity to submit evidence in support of their claims. In re *Platsky*: court errs if court dismisses the pro se litigant (Defendant is not an attorney) without instruction of how pleadings are deficient and how to repair pleadings. In re *Anastasoff*: litigants' constitutional rights are violated when courts depart from precedent where parties are similarly situated. All litigants have a constitutional right to have their claims adjudicated according the rule of precedent. See *Anastasoff v. United States*, 223 F.3d 898 (8th Cir. 2000). Statements of counsel, in their briefs or their arguments are not sufficient for a motion to dismiss or for summary judgment, *Trinsey v. Pagliaro*, D.C. Pa. 1964, 229 F. Supp. 647.

This Defendant is in charge of other entities besides D L P LT13 many of which have tax returns due April 15<sup>th</sup> . This Defendant cannot put the needs of one entity (D L P LT13) above all the other entities. This Defendant will be unable to accomplish the legal research needed to be done before a meeting with the United States attorneys. To have all the parties meet before April 12, 2010 would basically be a waste of time because very little could be accomplished without time for this Defendant to properly prepare.

This Defendant has printed out just Rule 26 and it consists of over 10 pages. This Defendant is not a lawyer and D L P LT13 has no money to obtain a lawyer. The United States attorney has unlimited money and the United States attorneys have probably spent up to seven years in school and had practical experience. This Defendant needs time to study Rule 26 and prepare for the required meetings in order for the meeting to be productive and perhaps lead to a more speedy resolution of this legal action.

Therefore, the Defendant asks for a 60 day continuance to read, investigate and to be able to prepare and comply with Rule 16 and Rule 26.

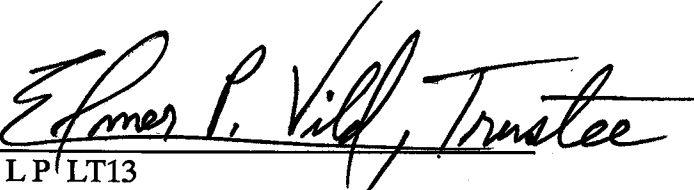
Defendant telephoned the Plaintiff at 9:15 AM Arizona time on April 2, 2010 to see if there would be any harm for this Court to grant a delay of 60 days. The Defendant reached Alexis V. Andrews' personal telephone answering machine which stated she was temporarily away from the telephone, but it did not say she would be gone for the day or anything similar. The Defendant left the Plaintiff a message to return his telephone call before the end of the day if she had any objection to the request for a 60 day continuance. Defendant stated that he would submit the 60 day continuance today, April 2, 2010, if he

did not receive a return telephone call. This is being taken to the post office after 6:30 PM Washington, DC time.

This lawsuit entails actions which took place over 20 years ago. A mere 60 day delay would not seem to matter or harm anyone. A 60 day continuance would move the May 3, 2010 Rule 16 Pretrial Scheduling Conference from May 3, 2010 to a date after July 3, 2010 that is convenient for the Court.

Therefore, the above premises considered, and no harm to anyone, this Defendant requests the Court to grant a delay of, at minimum, 60 days.

Respectfully submitted this 2<sup>nd</sup> day of April, 2010.

  
D L P LT13  
Elmer P. Vild, Trustee

## CERTIFICATE OF SERVICE

Original for the Clerk of the Court  
and one copy for the Honorable  
Susan R. Bolton mailed this 2<sup>nd</sup> day  
of April, 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 2<sup>nd</sup> day of April,  
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 85801-5040

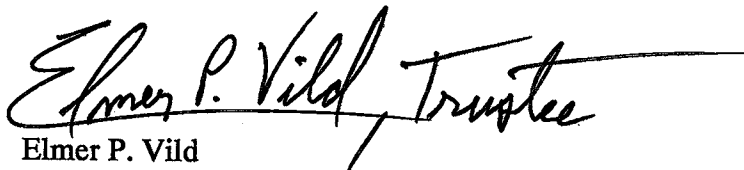
ALEXIS V. ANDREWS  
Trial Attorney, Tax Division  
U.S. Department of Justice  
P.O. Box 683, Ben Franklin Station  
Washington, D.C. 20044-0683

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

Arizona Department of Revenue  
1600 W. Monroe  
Phoenix, AZ 85007

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

Dated this 2<sup>nd</sup> day of April, 2010.

A handwritten signature in black ink that reads "Elmer P. Vild, Trustee". The signature is written in a cursive style with a long horizontal line extending from the end of the name.

Elmer P. Vild  
D L P LT13, Trustee