

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,)	
)	Civil No. CV 09-00444-PHX-SRB
Plaintiff,)	
)	MOTION FOR A MORE
v.)	DEFINITE STATEMENT
)	
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.)	

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.

In order for the Defendants to prepare for the upcoming meetings with the Plaintiff, this Defendant needs to know whether Plaintiff is claiming that Defendant, D L

P LT13, has been classified as being a “nominee” or “alter ego” of Maria D. Forman. The Defendants, Elmer P. Vild as Trustee and Maria D. Forman in the instant case, are lay persons and cannot be expected to defend against two different claims at the same time. Neither claim has been established by the Plaintiff. Plaintiff wants to start discovery procedures and then build its case depending what it finds on its “fishing trip” during discovery. This abuse should not be allowed by this Court. To ask the Defendant to have to simultaneously prepare against multiple defenses would be grossly unfair and smack of favoritism towards the Plaintiff.

The Plaintiff knows it cannot move forward in the instant case on both “nominee” and “alter ego” theories because the Plaintiff’s own manual informs the Plaintiff that they are different theories. In the Internal Revenue Manual 15.17.14 at 5.17.14.3 (10-19-2007), *Nominees and Alter Egos*, it states in paragraph number 2 the following:

“Although the Service may take the position that a person or entity is either a transferee or, alternatively, a nominee (alter ego, if an entity), the person or **entity cannot be both.**” (emphasis added)

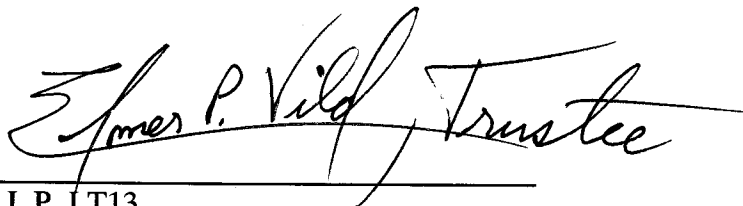
So which is the Plaintiff claiming, “Nominee” or “Alter Ego”? The two are different theories and require different prosecutions and defenses. “Nominee” and “alter ego” are mutually exclusive. One cannot be both a “nominee” and an “alter ego” at the same time. Plaintiff must inform the Defendant which theory the Plaintiff is pursuing so the Defendant may prepare a proper defense in accordance with federal rules.

Under *Conference Content; Parties’ Responsibilities* at Rule 26(f)(2) we find that in the conference “...the parties must consider the nature and basis of their claims and defenses ...”. That would require that the Defendants consider and prepare a basis for defending “nominee” and a separate basis for defending the “alter ego” theory proposed

by the Plaintiff. It is unreasonable to expect lay Defendants to prepare for multiple defenses when the Plaintiff may not utilize both theories at the same time.

The Plaintiff's own manuals, by which they are bound, distinctly state the two theories are different and one cannot be both a "nominee" and an "alter ego" at the same time. Therefore, "nominee" and "alter ego" claims as well as the defenses are different. In order that the Defendants are able to prepare a proper defense, this Defendant prays that the Court will Order the Plaintiff to inform the Defendants and this Court whether the Plaintiff is claiming that D L P LT13 is a "nominee" or the "alter ego" of Maria D. Forman.

Respectfully submitted this 15th day of June, 2010.

A handwritten signature in cursive script that reads "Elmer P. Vild, Trustee". The signature is written in black ink 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 15th day of June, 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 15th day of June, 2010 via first class mail to:

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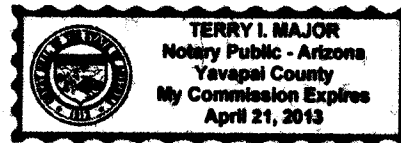
Maria D. Forman
5640 East Duane Lane
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Jimmy Chisum, 84388-008
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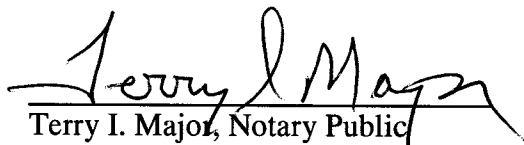
DENISE ANN FAULK
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State of Arizona)
) ss.
County of Yavapai)

{Seal}



This document has thus been served.


Terry I. Major, Notary Public