

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

STATE OF NEW MEXICO ex rel KENNETH GOMEZ,

Plaintiffs,

vs.

1:10-cv-594 JAP/LFG

ELEVENTH JUDICIAL DISTRICT COURT,

Defendant.

**MEMORANDUM BRIEF IN SUPPORT OF MOTION TO STRIKE
DEFENDANT'S ANSWER TO SECOND AMENDED COMPLAINT
TO VOID JUDGMENT AND FOR WRIT OF QUO WARRANTO**

I. GENERAL BACKGROUND

A. Plaintiffs State of New Mexico ex rel Kenneth Gomez has good cause to expose Defendants bold attempt to put a fraud upon this Court in that their Answer contains deliberate misleading information and unauthorized locution to justify avoiding legal responses to Plaintiffs' Complaint. Information is supplied to this honorable Court for action when it becomes competent with jurisdiction to act.

a. One matter needs clarification. The court filing fee for the Notice of Removal in the instant case can be evidence of a criminal act; the source of the filing fee is important and must be reported to the Federal Bureau of Investigation for consideration; since, Plaintiffs have turned the entire matter over to the Farmington Office of the FBI for investigation. Plaintiffs shall await the action of this Court in this matter for ten days from the date of this filing and thereafter, they shall provide the information to the Farmington Office of the FBI.

II. FACTS, POINTS OF LAW, AND AUTHORITIES

A. Responsive Pleading Options, Rule 8, Pleadings and Motions, Federal Rules of Civil Procedures; responsive pleadings to a complaint permit three options:

a. Admit,

b. Deny, or

c. Deemed deny, because the pleaders lack knowledge or information necessary to respond, citing *Fusion Capital Fund II, LLC v. Millenium Holding Group, Inc.*, 590 F. Supp. 2d 1055 (N.D. Ill. 2008)(improper locution); *Gracedale Sports and Entertainment, Inc v. Ticket Inlet, LLC*, 1999 WL 618991 (N.D. Ill. 1999)(refusing to answer "legal conclusions" "flies in the face of established doctrine that legal conclusions are a proper part of federal pleading, to which Rule 8(b) also compels a response"); *Saldana v. Riddle*, 1998 WL 373413 (N.D. Ill. 1998) (dismissing as "nonsense" the claim that legal conclusions need not be admitted or denied); *Plessner v. CBS, Inc. / WBBM-TV*, 1998 WL 246138 (N.D. Ill. 1998) ("Rule 8(b) does not confer on any pleader a right of self-determination as to any allegation that the pleader believes does not require a response"); *Ponce v. Sheahan*, 1997 WL 798784 (N.D. Ill. 1997) (Rule 8(b) "creates no exception for so-called 'legal conclusions'"). Also see generally *Neitzke v. Williams*, 490 U.S. 319, 324, 109 S. Ct. 1827, 1831, 104 L. Ed. 2d 338 (198)(observing that federal civil complaints "contain[] . . . both factual allegations and legal conclusions").

B. Members of Defendant District Court was represented by **ROBLES** in the United States District Court for the District of Columbia in *Gomez v. Aragon, et al.*, 09-cv-02010RWR/RMD (DCDC 2009), hereinafter, "Gomez 1", and **ROBLES** knew that four persons holding federal commissions as district judges in this honorable Court did so under false pretenses; they also knew that no person lawfully held public office within the State of New Mexico. (36 Memorandum Brief, pp 10-13 (Gomez"1"). Under provisions of NM Rules of Evidence 503D, Federal Rules of Evidence 501, the client may not request from the attorney the means or method to commit a crime nor can the attorney provide the means to a client to commit

a crime without losing attorney/client privilege which then permits an in-camera inspection of the firms records for direct evidence thereof. Therefore the filing of the Answer by Defendant District Court, as represented, was a deliberate attempt to put a fraud upon the Court and to deceive it into making a defective decision as it did in *Ysais*. See below.

C. While Gomez "1" was active within the United States District Court for the District of Columbia, **ROBLES** represented in this Court various state actors and persons residing within the State of New Mexico in a case named and numbered *Ysais v. New Mexico Judicial Standard Commission*, 616 F. Supp. 2d 1176.

a. In view of the preceding paragraph, **ROBLES** knew that none of the defendants therein held the applicable public office lawfully and deceived the Court into rendering the wrong decision irrespective of the Ysais' merits. In point of fact, Judge James Browning once served unlawfully as New Mexico Deputy Attorney General during the period 1987-1988 and was illegally compensated with state public fund appropriations during that specific period.

b. Judge Browning had a duty to know the promises made in the oath of office he took requiring him to support both constitutions and specifically the laws of the State of New Mexico. By accepting the illegal public fund appropriations while not holding public office lawfully, he perjured the oath of office taken. Had he been covered by a penal bond binding him to the oath taken in compliance with Article VI, Clause 3, Constitution for the United States of America, Article XXII, Section 19, Constitution of the State of New Mexico, and Section 10-2-5, 6, 7, and 9 NMSA 1978; his bond could have been called and he could no longer hold office. His Financial Disclosure Statement under provisions of P.L. 95-521 did not require him to report that matter at that time, but upon signing his Appointment Affidavit to gain title to the current public office held, he declared he had not opposed the United States in the past nor would he in the

future. So much for those holding public office who are not bound by their oath of office and for the evidence to show the untrustworthiness of Court personnel.

d. Judge Browning heard and determined *Ysais* and dismissed the case. *Ysais*, as in the instant case, was removed from state district court by **ROBLES** using funds from an unknown source. Eventually, a motion to dismiss was granted when much of the information provided against the defendants therein was true, factual, and correctly applied if fairness had been assured, absent the approach provided by *Ysais*. The evidence suggest that Judge Browning and **ROBLES** knew the truth, and that knowledge became a valid fraud put upon the Court involving both of them. *Bulloch v. USA*, 763 F.2d 1115, 1121. The same approach is expected to be used in the instant case with the same end result: extend the problem into perpetuity.

III. ARGUMENT

Obviously, the Defendant District Court, by and through their attorney, have no fear when it comes to violating Rule 11 by improperly removing a state case to a federal court that cannot be resolved in the federal court, and by violating Rule 8(b) with deliberate locution errors. Still further, the Court is ripe for a *Ysais* Rule 60(b)(4) independent cause of action for a fraud perpetrated upon the Court by the assigned judge and the *Ysais* Defendant assisted by **ROBLES**. The attempt and success for putting a fraud upon this honorable Court involving state actors represented by **ROBLES**, and each attorney operating from within the Professional Corporation, appears to be routine rather than the exception.

Accordingly, any pleadings or money, such as filing fee, submitted by the Defendant District Court, by and through counsel, either by United States Mail or by wire *in furtherance of criminal activity* is in violation of 18 U.S.C. § 1341 or § 1343; such filings would also be in furtherance of the crime of defrauding the United States in violation of 18 U.S.C. § 371

exercised in conjunction with 18 U.S.C. §§ 241, 245(a)(2) and (a)(2), and 286. Any further pleadings in the instant cause by the Defendant Court, by and through **ROBLES**, shall only occur in furtherance of the criminal activity reported to this honorable Court and the Farmington Office of the Federal Bureau of Investigation.

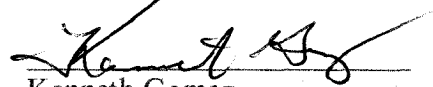
In addition, the Court must be informed that those persons listed in Exhibit "4", 10 who hold federal commissions under false pretenses must return all federal appropriated public funds received by them, during times relevant, to the United States Treasury initiated by the Court before the Court can regain competence to act in the instant case. Still further, all cases heard and acted upon by the Court while these four held federal commissions under false pretenses must be subject to Rule 60(B)(4) determinations before the Court can become competent with jurisdiction to act in any cause of action. Finally, the matters reported in this Argument must be provided to the Office of the Farmington FBI within ten days of this filing or Plaintiffs will do so upon contacting the said FBI office.

IV. CONCLUSION

The Court is and has been contaminated and corrupt since 1995, the year Mr. Bruce Black received his appointment to the position as district judge predicated upon false information provided in his Financial Disclosure Statement. Numerous causes were heard and determined by the Court causing untold injustices, *Ysais* and *Gutierrez v. Persons Holding Licenses*, Exhibit "1", 10, being among them. The evidence is that pro se litigants have no chance that fairness will be insured within this Court under the foregoing circumstances.

WHEREFORE, Plaintiffs pray the Court, upon receiving competence and the corresponding jurisdiction, will strike the Defendants Answer and compel a proper Answer under provisions of Rule 8(b) without delay.

Respectfully submitted,



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I hereby certify that on this
1st day of July 2010, the
foregoing was electronically
served through the CM/ECF
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