

**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.

VERIFIED MOTION FOR SUMMARY JUDGMENT UNDER RULE 56

THE COURT has proposed denying Plaintiffs discovery practice which prevents them from acquiring pertinent elements of the criminal enterprise engaged in by members of the Court and by the Defendant, as represented. Furthermore, Defendant District Court¹ removed the case, perhaps unwittingly, from the State of New Mexico under provisions of 28 U.S.C. §§ 1441 *et seq.* which otherwise justifies rendering summary judgment on the whole action, Rule 56(d)(1), in that there is no genuine issue as to any material fact, in that Defendant unwittingly confessed to plaintiffs' claims, via 28 U.S.C. § 1443 as the authority of Defendant District Court for removal, and in that movant is entitled to judgment as a matter of law when the Court acquires competent jurisdiction to act. As grounds therefor and by memorandum brief in support thereof, Plaintiffs state:

(a) Four of the persons occupying positions as district judge and at least one at the Tenth Circuit criminally hold federal commissions under false pretenses; their acts form the core of a criminal enterprise composed of state public officers, state public entities such as Defendant, and **ROBLES, RAEL, & ANAYA, P.C.**, the professional corporation providing counsels for the Defendant. Portion 3, P.L. 95-521.

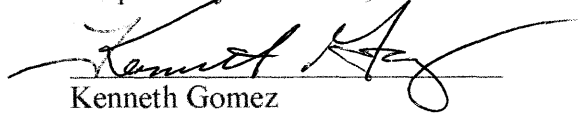
¹ Defendant's counsels were consulted on this motion and they shall oppose.

(b) Said counsels for the Defendant District Court had direct knowledge of the preceding fact provided in pleadings before the United States District Court for the District of Columbia in a case named and numbered: *Gomez v. Aragon, et al.*, 1:09-cv-02010 RWR; the specific pleading which named the individual of this Court and the Court of Appeals for the Tenth Circuit who held federal commissions under false pretenses was entitled:

Memorandum Brief in Support of Consolidated Supplemental Response to Defendant William Richardson's Motion to Dismiss for Lack of Personal Jurisdiction; State Defendants' Motion to Dismiss No.:1 Dismissal Based on Lack of Personal Jurisdiction; Defendant Moeller's Motion to Dismiss, (Document 37, DCDC Jan 2010, ¶ 14 b(1) to (6), pp. 11 - 13).

(c) Plaintiffs differ from Defendant District Court in that Plaintiffs have both the capacity and real party interest with standing to sue under provisions of state law Section 44-3-4 NMSA 1978 while the Defendant District Court does not have the capacity to defend against the State of New Mexico as a state entity. Rule 17(a) and (b): The capacity of Plaintiff Gomez to sue as the real party of interest and to sue as a representative of the State of New Mexico is governed by state law, Section 44-3-4 NMSA 1978; Defendant District Court can defend as the real party of interest only with a stake in the outcome. Thus to bring suit to sue with standing, Plaintiffs have both "capacity" under Rule 17(b) and real party interest under Rule 17(a) as provided them by Section 44-3-4 NMSA 1978, while Defendants may only defend as a party with a real stake in the outcome. *Kauffman v. Anglo-American School of Sofia*, 28 F.3d 1223, 1225 (D.C. Cir. 1994) (cause of action based on state law means capacity of unincorporated association is also based on state law); *Streit v. County of Los Angeles*, 236 F.3d 552, 565 (9th Cir. 2001) (in federal civil rights suit against county entity, Rule 17 (b) deferred to state law to determine capacity of defendant to be sued).

Respectfully submitted,



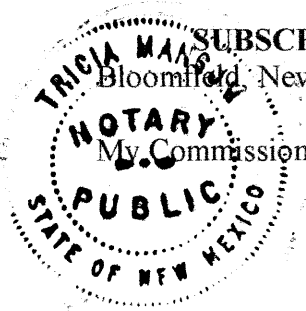
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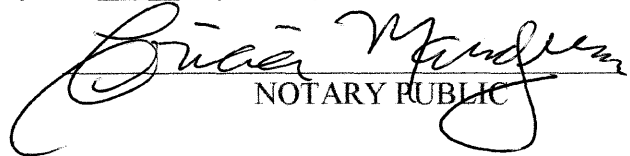
VERIFICATION

STATE OF NEW MEXICO)
) ss.
COUNTY OF SAN JUAN)

SUBSCRIBED AND SWORN TO before me by Kenneth Gomez, 4 CR 5095, Bloomfield, New Mexico under penalty of perjury this 19 day of July, 2010.

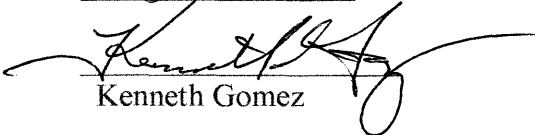
My Commission expires: 11-26-013
DATE




NOTARY PUBLIC

I hereby certify that on this 19th day of July 2010, the foregoing was electronically served through the CM/ECF system to the following:

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