

**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.

MOTION TO VACATE ATTORNEY-CLIENT PRIVILEGE

COME NOW the Plaintiffs under Federal Rules of Evidence 501 and NMRA 11-503D to vacate every possible attorney-client privilege existing between either the Plaintiffs' named Defendant District Court or a possible existing attorney-client privilege with the Risk Management Division, General Services Department, State of New Mexico, a statutory body, and both **ROBLES, RAEL & ANAYA, P.C.** and Mr. Luis Robles.¹ As grounds therefor and by memorandum brief in support thereof, Plaintiffs state:

(a) Plaintiff Gomez represents the State of New Mexico under authority of Section 44-3-4 NMSA 1978 in that there is neither a person lawfully occupying the office of New Mexico Attorney General in the State of New Mexico nor is there a district attorney anywhere within the State of New Mexico lawfully occupying a position as district attorney in any county of New Mexico possessing authority granting Plaintiff Gomez to proceed under said Section 44-3-4, a citizen who, in lieu thereof, exercised the power reserved for him under Article II, Section 23, Constitution of the State of New Mexico to do so. There are no persons occupying a state public office in compliance with the power mandated in Article XXII, Section 19, Constitution of the State of New Mexico and the authority under provisions of Sections 10-2-5, 6, 7, and 9.

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

(b) In view of the foregoing, no person, public officer, corporation, association, entity, either public or private, within the State of New Mexico shall be empowered openly, directly, or indirectly to oppose the Plaintiff State of New Mexico represented by Plaintiff Gomez without committing an offense against the Constitution of the State of New Mexico. See said Section 19, Article XXII and NMSA 10-2-5, 6, 7, and 9 the authorities giving that power effect.

(c) **ROBLES, RAEL & ANAYA, P.C.**, and Attorney Luis Robles acted, perhaps deceptively, as surety for the Defendant District Court, *Exhibit 8*, or Risk Management Division while said law firm and Luis Robles, the practicing attorney, demonstrated that they acted on Defendant District Court behalf in a state court proceedings - the Notice of Removal, Document No. 1 - in violation of Section 36-2-13 NMSA 1978; to wit:

Section 36-2-13. [Attorneys prohibited from acting as surety for clients.] (1909)

No practicing attorney shall be a surety in any action or proceeding in which he is an attorney in any of the courts in this state.

History: Laws 1909, ch. 53, § 31; Code 1915, § 358; C.S. 1929, § 9-132; 1941 Comp., § 18-112; 1953 Comp., § 18-1-12.

(d) While the Court may not have noticed the foregoing deceptive activity, it had a duty to maintain the purity of Court records as to which of the two was *the real party in real interest* for due process purposes to ensure fairness and to avoid participating in fraudulent activity. *Bulloch v. U.S.*, 753 F.2d 1115, 1121, Exhibit 5, Document No. 15.

(e) The Court gave a Receipt Number ALB012085 dated June 23, 2010 to **ROBLES, RAEL & ANAYA, P.C.** for their \$350.00 Check Number 6544 filing fee, *Exhibit 8*, and became culpable in the said fraudulent activity, *Bulloch*; the two activities when joined became a criminal conspiracy defrauding the United States as addressed by 18 U.S.C. § 371 and a conspiracy against the rights of Plaintiffs as addressed by 18 U.S.C. § 241.

(f) NMRA 11-503D, New Mexico Rules of Evidence, denies attorney-client privilege to a client who seeks counsel from a practicing attorney to engage in fraudulent activity or when a practicing attorney engages in fraudulent activity to assist a client; Federal Rules of Evidence 501 supports, with an rule of law abundance, identical conclusions. See supporting brief.

WHEREFORE, Plaintiffs pray the Court will cease engaging in the reported criminal enterprise and take immediate action to vacate the attorney-client privilege between counsels of record and the Defendant District Court or on behest of Risk Management for the following legal reasons:

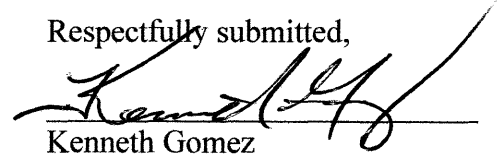
(1) Improvidently removing the case from state when the relief demanded by the Plaintiffs was to vacate all judgments and decisions rendered by the state court against Plaintiff Gomez which was beyond the jurisdiction of this Court under the **Rooker-Feldman Doctrine**. See Exhibit 3, Document No. 10.

(2) Engaging in deceptive activity with the Court in violation of NMSA 36-2-13.

(3) Seeking and acquiring an alliance with the Court's criminal enterprise, *Exhibit 4*, on behalf of Defendant District Court, perhaps at the behest of Risk Management as second client, in violation of Rules of Evidence, NMRA 11-503D, a rule defining the Defendant District Court as a "person", NMRA 11-503D, A(1).

(4) There exists no privilege under NMRA 503D(1) in furtherance of crime or fraud, under 503D(3) for breach of duty by attorney or client, and under 503D(5) in the case of two or more joint clients, whoever they may be.

Respectfully submitted,



Kenneth Gomez
4 CR 5095

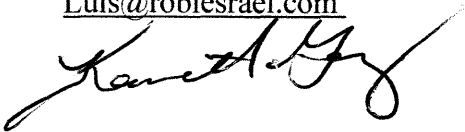
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I hereby certify that on this
23rd day of July 2010, the
foregoing was electronically
served through the CM/ECF
system to the following:

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A handwritten signature in black ink, appearing to read "Karen A. Gifford", is written over the typed name "Luis Robles".