

**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.

**RESPONSE TO DEFENDANT'S MOTION FOR PARTIAL SUMMARY JUDGMENT  
NO.1: DISMISSAL OF PLAINTIFF'S QUO WARRANTO ACTION AND CLAIMS  
BROUGHT UNDER 42 U.S.C. §§ 1983, 1985, 1986**

A. Plaintiffs stand by each of the State Court exhibits submitted, one of which is verified, with Defendant's Motion for Partial Summary Judgment, however, at no time have Plaintiffs brought claims *in this Court* under 42 U.S.C. § 1986 which cannot possibly be supported in Defendant District Court's motion. Accordingly, their 54 page motion is fatally flawed.

a. The purpose of summary judgment is to isolate, and then terminate, claims and defenses that are factually unsupported. *Celotex Corp. v. Catrett*, 477 U.S.C. 317 322-324, (1986).

b. Plaintiffs have demonstrated by their State Court pleadings submitted by Defendant District Court as exhibits, one of which is verified, that there are genuine issues requiring a trial when the Court becomes competent to act with jurisdiction. *Beard v. Banks*, 548 U.S. 521, 529 (2006).

**WHEREFORE**, Defendant District Court's Motion for Partial Summary Judgment No.1 must be DENIED under provisions of Rule 56(c).

Respectfully submitted,



Kenneth Gomez  
4 CR 5095  
Bloomfield, New Mexico 87413  
[klpope2003@yahoo.com](mailto:klpope2003@yahoo.com)  
(505)330-1239

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

Luis Robles  
Attorney for the Defendant  
500 Marquette Ave. NW, Suite 700  
Albuquerque, New Mexico 87102  
(505)242-2228  
(505)242-1106 (facsimile)  
[Luis@roblesrael.com](mailto:Luis@roblesrael.com)