

**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 FOR JUDICIAL NOTICE OF PERTINENT EVIDENCE**

Plaintiffs seek a Court order pursuant to Rule 201 preserving pertinent evidence contained in *Exhibits* 1, 2, 3, 4, 5, 6, and 7 attached to various pleadings filed by them and currently of record for use when the Court acquires competent lawful jurisdiction, and when the Court has notified the state court from which the case was removed to take no further action under authority of 28 U.S.C. § 1446 (c)(5). As grounds therefor and by memorandum brief in support thereof, Plaintiffs state:

(a) Verbatim quotes of irrefutable specific provisions of the New Mexico Constitution and applicable state statutes are contained in *Exhibit* 1 which are essential for proof of their cause of action and formatted under provisions of Rule 9.

(b) *Exhibit* 2 is a copy of Public Law 95-521 which required persons nominated for positions as district judges on the Court to file Financial Disclosure Statements without submitting false information. At least four of those current appointed to positions as district judges falsified their Financial Disclosure Statements as addressed in portion 3 of said law. The specific information revealing the falsified information is contained in *Exhibit* 4 and both exhibits are essential to verify the Court lacks competent and lawful jurisdiction to proceed sufficient to insure fairness

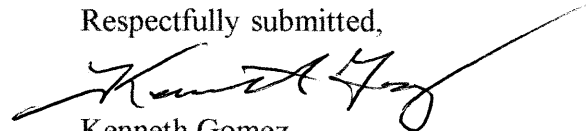
Pursuant to DNMLR-civ7.1(a) Defendant does not concur with proposed motion.

by providing Plaintiffs with the due process of law and the equal protection of the laws.

(c) *Exhibit 3* contains a case cite of the **Rooker-Feldman Doctrine** which prohibits the Court from overturning the decisions and judgments of a state court of law and which denies the Court jurisdiction to do so in state court cases listed in *Exhibit 1* attached to the original filing of Plaintiffs' Second Amended Complaint To Void Judgments, And For Writs of Quo Warranto filed on June 16, 2010 and removed, without benefit of law, to this Court on June 21, 2010. *Exhibit 3* is essential to prove the Court lacks competent jurisdiction to act on said Second Amended Complaint.

**WHEREFORE**, Plaintiffs pray the Court will grant judicial notice of those above identified exhibits so they can prove their cause of action when the Court acquires competent jurisdiction or it is remanded to the state court for action where it belongs.

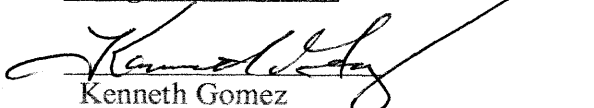
Respectfully submitted,



Kenneth Gomez  
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(505)330-1239

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

Luis Robles  
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500 Marquette Ave. NW, Suite 700  
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Kenneth Gomez

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ELEVENTH JUDICIAL DISTRICT COURT,

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MEMORANDUM BRIEF IN SUPPORT OF  
MOTION FOR JUDICIAL NOTICE OF PERTINENT EVIDENCE

I. INTRODUCTION

(a) The case was removed from state court under questionable conditions in that the Court cannot overturn the decisions and judgments of a state court under the authority of the **Rooker-Feldman Doctrine**, See Exhibit 3, Second Amended Complaint and the first *Exhibit* attached thereto containing the state cases to be overturned.

(b) The Court has yet to comply with 28 U.S.C. § 1446(c)(5) and has exercised an unauthorized jurisdiction thereby by issuing an Order, Document No. 17 and by denying the power of *Cohens v. Virginia*, 6 Wheat. 264, 5 L. Ed. 257 (1821): *Those judges who exercise jurisdiction not possessed or who refuse to exercise jurisdiction when possessed commit treason which cannot be classed as good behavior either under Article III, Section 1, or Section 3, Fourteenth Amendment, Constitution for the United States of America.* [Emphasis added].

(c) The Court is invited to consider the following.

II. FACTS, POINTS OF LAW, AND AUTHORITIES

(d) The Facts, Points of Law and Authorities provided below were assembled to justify a Court order for the judicial notice of *Exhibits 1, 2, 3, and 4* attached to Document No. 10.

(1) Said *Exhibits* 1, 2, 3, and 4 are capable of accurate determination by resort to sources contained therein whose accuracy cannot be reasonably questioned. *Murakami v. United States*, 398 F.3d 13542 (Fed. Cir. 2005); *Photometrics, Inc. v. Hospitality Int'l, Inc.* 120 F. App'x 341 (Fed.Cir.,2005), and *Impax Labs., Inc. v. Aventis Pharms.*, 333 F. Supp. 23d 265 (D. Del. 2004).

(2) Judicial Notice is mandatory when requested by a party. *Impax Labs.*

(3) The content and context of said *Exhibits* have the highest degree of indisputability as an essential quality of the information for judicial notice. Indeed references to New Mexico Statutes 10-2-5, 6, 7, and 9 could not and cannot be altered, amended, or revised lawfully – although material alterations thereto were made unlawfully over time – without approval of the Congress of the United States and thereafter a vote of the electorate of New Mexico; those mandatory acts have never taken place. *Washington v. Kelly*, 2007 U.S. District. LEXIS 46669 (N.D. Ohio 2007); *Mayes v. City of Hammond*, 2006, U.S. Dist. LEXIS50950 (N.D. Ind. 2006); *Rivera v. Phillip Morris, Inc.*, 395 F.3d. 1142 (9th Cir. 2005); *Hennessy v. PenrilDatacomm Networks, Inc.*, 69 F.3d. 1344 (7th Cir. 1995).

(4) Trial judge must regularly take judicial notice of the contents of federal and state laws contained in said *Exhibits* without any formality of proof or introduction. *Chiang v. NMBA*, 2007 U.S. Dist. LEXIS 61787 (D. Mass. 2007); *Getty Petroleum Mktg., Inc. v. Capital Terminal Co.*, 391 F.3d 312 (1st Cir. 2004).

(5) The purpose of judicial notice under Rule 201 is to preclude a party from introducing contrary evidence concerning a fact that is not subject to dispute. *Jones v. Lane*, 2006 U.S. Dist. LEXIS 61994 (D. Colo. 2006).

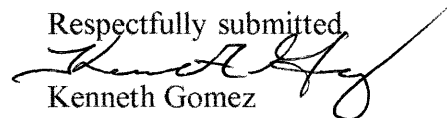
(6) The result of persons posing as New Mexico public officers denying provisions of both constitutions and defying the applicable New Mexico statutes, though altered and though occurring during a civil litigation, the fact that it was accomplished on New Mexico real estate using illegally appropriated public funds may constitute a criminal insurgency as addressed in 18 U.S.C. 2381 *et seq.*

### III. ARGUMENT

Defendant, by and through counsels, has altered the meaning of Plaintiffs' Second Amendment Complaint by a plethora of multi-paged pleadings so that Plaintiffs are not able to unravel their inexplicably intertwined reasoning redefining Plaintiffs' Complaint sufficient to produce a logical or intelligent framework upon which to organize a legal response. Judicial notice of Plaintiffs' *Exhibits* 1, 2, 3, 4, 5, 6, and 7 shall undo Defendant's deliberate entanglement of the essential facts to determine the gravamen of Plaintiffs' cause. Accordingly, and to save the Court's time and possible confusion, Plaintiffs request the said *Exhibits* be judicially noticed without delay.

**WHEREFORE**, Plaintiffs pray the Court will grant judicial notice of those above identified exhibits so they can prove their cause of action when the Court acquires competent jurisdiction or it is remanded to the state court for action where it belongs.

Respectfully submitted,



Kenneth Gomez

4 CR 5095

Bloomfield, New Mexico 87413

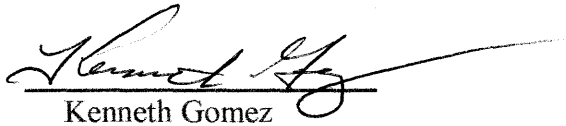
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I hereby certify that on this  
16<sup>th</sup> day of July 2010, the  
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Luis Robles  
Attorney for the Defendant  
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Albuquerque, New Mexico 87102  
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**ORDER**

**THIS MATTER** is before the Court on Motion and Memorandum Brief for Judicial Notice of Pertinent Evidence of record submitted by Plaintiffs as Exhibits 1 to 7; the Court being aware of the premises and finding good cause exist to grant their motion;

**NOW THEREFORE** Plaintiffs Motion for Judicial Notice of Exhibits 1 to 7 is hereby **GRANTED**.

It is so ordered.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
UNITED STATE DISTRICT JUDGE