

Sam Davis, Creditor
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Council, Idaho state

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Restricted Appearance

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2009 APR 15 A 9:26
U.S. DISTRICT COURT
DISTRICT OF NEVADA
BY: _____ DEPUTY

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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UNITED STATES OF AMERICA,)	2:09-CR-00078-JCM-RJJ
)	
PLAINTIFF,)	VERIFIED REPLY TO UNITED STATES
)	OF AMERICA'S NON-RESPONSE TO
vs.)	PROVIDE THE RATIFICATION OF
)	COMMENCEMENT; EX PARTE
SAMUEL DAVIS, and)	MOTION FOR ORDER DISMISSING
SHAWN RICE,)	INDICTMENT AGAINST DEFENDANT
)	SAMUEL DAVIS,
DEFENDANTS.)	PROOF OF SERVICE
)	

Samuel: Davis Avers:

**VERIFIED REPLY TO UNITED STATES OF AMERICA'S
NON-RESPONSE TO PROVIDE THE RATIFICATION OF COMMENCEMENT**

The above-entitled defendant SAMUEL DAVIS or any derivative thereof (*in rem* "Defendant") by and through its undersigned authorized representative creditor/secured party, Samuel Lynn: family of Davis (hereinafter *sui juris real party in interest* "Me, My, Myself, Mine, and/or I"), hereby replies to the above-entitled plaintiff United States of America's (*straw man* "Plaintiff") non-response and failure to provide Me and the above-entitled court ("Court") evidence of the ratification of commencement within a reasonable time.

I. A BRIEF SUMMARY OF THE FACTS

On March 6, 2009, at Court's scheduled Initial Appearance/Arraignment & Plea proceeding held at 3:00 p.m. before the Honorable Magistrate Judge Lawrence R. Leavitt in Courtroom: 3C, I reserved Defendant's plea by objecting to Plaintiff's irregular action under

Rule 17 of the Federal Rules of Civil Procedure, which provides Plaintiff a reasonable time in which to evidence the required ratification of commencement ("Ratification") to grant Plaintiff the privilege to file its above-entitled insufficient action ("Indictment" or "Action") in Court, since I nor the Defendant know or recognize Plaintiff or Plaintiff's attorneys to the same extent that the Indictment lacks a jurisdictional statement and overlooked providing the remedy to verify its claim upon which relief can be granted, as Plaintiff has neither enjoined Defendant nor I to its list of financial institutions¹ in which to support its Indictment's claim(s). To date the Plaintiff has failed to provide within the reasonable time limitation the Ratification.

On March 10, 2009, the Honorable Judge Howard D. McKibben ("McKibben") ordered his recusal from Action on what appears to be Court's irregular entry of Defendant's plea without first evidencing the Ratification and thereby leaves Court holding a fatal error.

The Defendant is informed and believes, and based thereon alleges that the Plaintiff is not *the real party in interest* and its failure to provide Court and Defendant the Ratification and the remedy bars Action against the Defendant, as courts are to officially and judicially notice *sua sponte* the absence of court's cognizance over defendant(s) on record, and in its absence Court should dismiss Indictment with prejudice against the Defendant for want of agreement between the parties in which to avoid fraud² on Court rather than prejudice Defendant further in maintaining Plaintiff's deficient Action.

EX PARTE MOTION FOR ORDER
DISMISSING INDICTMENT AGAINST SAMUEL DAVIS

I, the undersigned, hereby move Court for an order dismissing the Indictment with prejudice against Defendant SAMUEL DAVIS for Plaintiff United States of America's failure to provide Me and Court, within a reasonable time, the required Ratification in which to maintain Plaintiff's Action, and further, in the interests of justice, I also move Court to seal this action.

Executed without the United States on this ~~16~~¹⁵ day of April 2009, at Las Vegas, Nevada.

By: 

For Defendant SAMUEL DAVIS

¹ Title 12 §24 *et seq.* for Financial Institutions

² Stone v. Stone, 647 P.2d 582, 586, see also The Chief Characteristic under Statute of Frauds.

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)	

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PROOF OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing to which this Proof of Service is attached will be duly served upon the following by depositing same in the United States Postal Service's First Class Mail Postage Prepaid and addressed as follows:

GREGORY A BROWER and
United States Attorney
ERIC JOHNSON
Assistant United States Attorney
333 Las Vegas Blvd. South, Suite 5000
Las Vegas, Nevada 89101

The Honorable D.C. Judge James C. Mahan
C/O Clerk of Court
United States Courthouse
Las Vegas, Nevada 89101

Executed without the United States on this 18th day of April 2009, at Las Vegas, Nevada.

By:


For Defendant SAMUEL DAVIS