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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT IN AND
FOR THE STATE OF IDAHO COUNTY OF TWIN FALLS

In Re SRBA	)	Subcases 47-16433, <i>et al.</i>
	)	(see list of 26 subcases attached)
Case No. 39576	)	(USDA/FS)
	)	
	)	RESPONSE TO U.S. MOTION TO
	)	STRIKE ASSEVERATIONS AND
	)	EXHIBITS
_____	)	

This is the RESPONSE TO U.S. MOTION TO STRIKE ASSEVERATIONS
AND EXHIBITS of Bruce Byron Bedke and Jared K. Bedke (challengers), pro se
litigants, in the above named subcases. Bruce Byron Bedke and Jared K. Bedke are
unschooled in law and ask the court to take Judicial Notice of the enunciation of
principles as stated in Haines v. Kerner, 404 U.S. 519, wherein the court has directed that
those who are unschooled in law making pleadings and/or complaints shall have the court
look to the substance of pleadings rather than the form.

ASSEVERATIONS

The United States argues in its Memorandum that the Asseverations should be stricken because they were not properly sworn and that an oath or affirmation by a notary public is required.

In *Gordon v State of Idaho*, the Ninth Circuit Court of Appeals notes,

“The Fourth Circuit has also noted that ‘all the common law requires [of a criminal defendant testifying at trial on his own behalf] is a form of statement which impresses upon the mind and conscience of a witness the necessity for telling the truth.’ *United States v Looper*, 419 F.2d 1405, 1407 (4th Cir. 1969). *See also Baynes v Ossakow*, 336 F.Supp. 386, 388 (E.D.N.Y.1972) (plaintiff’s handwritten “affirmation” made expressly under penalty of perjury deemed a sufficient affidavit for purposes of defeating summary judgment motion).”

And also,

“Fed.R.Evid. 603 states that every witness ‘shall be required to declare that he will testify truthfully, by oath or affirmation administered in a form calculated to awaken his conscience and impress his mind with his duty to do so.’ The advisory committee notes to Rule 603 illustrate that an affirmation need take no particular form: ‘The rule is designed to afford the flexibility required in dealing with religious adults, atheists, conscientious objectors, mental defectives, and children. Affirmation is simply a solemn undertaking to tell the truth, no special verbal formula is required.’ Fed.R.Evid. 603 advisory committee notes.” *Gordon v. Idaho* 778 F.2d 1397, 1400

Whereas the court has directed that a solemn undertaking to tell the truth is all that is required of anyone, any such declaration will suffice as long as it is binding on the conscience of the one making such a declaration. An asseveration is defined as

“An Affirmation; a positive assertion; a solemn declaration. This word is seldom, if ever, used for a declaration made under oath, but denotes a declaration accompanied with solemnity or an appeal to conscience, whereas by an oath one appeals to God as a witness of the truth of what one says.” *Blacks Law Dictionary* 5th

Asseverations therefore meet the requirements set out by the courts. As an asseveration is binding upon the conscience of the one signing it, further declaration before a notary is not required, as it will impose no greater awakening than already exists in the mind of the

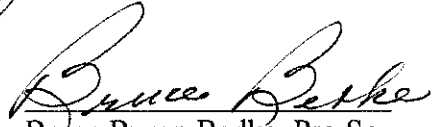
signator of the asseveration. The only purpose of the notary in that case, would be as a witness to the signature of the document. With the asseverations in question, two people witnessed each signature, and signed as witnesses to the signature. Their declaration as witnesses on the documents is sufficient to demonstrate that the person undertaking the asseveration did indeed sign it.

EXHIBITS 6 & 7

Exhibits 6 & 7 to the challenger's Opening Brief were not offered to the court as evidence in this matter, as evidence can only be admitted by a judge, or special master, at trial. Exhibits 6 & 7 were attached as an offer of proof to the court as to the correctness of the facts plead in the Opening Brief, and as such are not subject to the standards of the IRE at this time.

Respectfully submitted this 26th day of January, 2005.


Jared K. Bedke, Pro Se


Bruce Byron Bedke, Pro Se

CERTIFICATE OF SERVICE

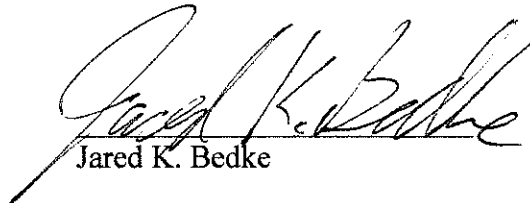
I hereby certify that on this 26th day of January, 2005 I served a true and correct copy of the foregoing OPENING BRIEF IN SUPPORT OF NOTICE OF CHALLENGE OF SPECIAL MASTERS REPORT and RECOMMENDATION upon the following individuals by placing the document in the United States Mail, postage prepaid, addressed as follows:

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Jared K. Bedke

ATTACHMENT 1

Subcase Nos:

47-16433
47-16434
47-16435
47-16437
47-16438
47-16440
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