

1 L. Daniel Smith  
2 *In Propria Persona*  
3 c/o: 1314 South Grand Blvd. Suite 2-128  
4 Spokane [99202]  
5 WASHINGTON STATE, USA

6 UNITED STATES DISTRICT COURT  
7 FOR THE EASTERN DISTRICT OF WASHINGTON  
8 (Hon. Rosanna Malouf Peterson)

9 **In Re:** ) **No. CV-11-340-RMP**  
10 SEARCH WARRANTS )  
11 ) REPLY TO MR. PARISI'S  
12 ) RESPONSE TO MOTION TO  
13 ) STRIKE SUBMISSIONS FOR  
14 ) LACK OF STANDING  
15 )

16 COMES NOW, L. Daniel Smith, *in propria persona*,  
17 hereinafter "Movant", to file this REPLY TO MR. PARISI'S  
18 RESPONSE TO MOTION TO STRIKE SUBMISSIONS FOR LACK OF STANDING

19 and would show this Honorable Court the following, to wit:

20 Movant has moved to strike Mr. Parisi's Notice of  
21 Appearance, subsequent filings, oral arguments, and witness  
22 testimony proffered on behalf of "UNITED STATES OF AMERICA"  
23 [sic] for lack of standing (ECF No. 37).

24 Mr. Parisi's response (ECF No. 38) appears to set forth no  
25 ultimate fact in support of standing, nor does it present any  
26 argument or rebuttal thereto. Mr. Parisi simply summarizes  
27 Movant's MOTION, declares it should be dismissed, and points to  
28 unpublished cases which are not binding precedent based upon  
findings of fact or genuine conclusions of law.

1 Of particular note regarding Mr. Parisi's response is the  
2 conspicuous absence of any offer of actual constructive evidence  
3 of standing.

4 Mr. Parisi has produced no complaint or summons whereby  
5 Movant or Plaintiff asked "UNITED STATES OF AMERICA" [sic] to  
6 appear as a Defendant in this civil matter.

7  
8 Mr. Parisi has produced no legal charter plainly showing  
9 "United States" and "UNITED STATES OF AMERICA" [sic] are legally  
10 one and the same. Movant rebuts any presumption they are.

11 Mr. Parisi has cited no statute where "UNITED STATES OF  
12 AMERICA" [sic] is defined as synonymous with the United States  
13 Federal government, notwithstanding for the express purpose of  
14 appearing in Federal Court (i.e. 28 U.S.C. § 1345 and § 1346.  
15

16 Mr. Parisi has produced no evidence or argument contrary  
17 that "United States of America", as appears in 28 U.S.C. § 1746,  
18 is not in direct contra-distinction to the "United States".

19 Mr. Parisi has produced no evidence the Eisner prohibition  
20 does not prohibit the re-defining of terms used in the U.S.  
21 Constitution. See Eisner v. Macomber, 252 U.S. 189 (1920).  
22 This seminal U.S. Supreme Court ruling trumps any arbitrarily  
23 dismissive order from a lower court that would suggest these two  
24 contra-distinctive terms, "United States" and "United States of  
25 America", are somehow *suddenly* synonymous in this new century.  
26  
27  
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1 Mr. Parisi has cited no Act of Congress, statute, or  
2 binding positive law conferring equal legal standing upon both  
3 "UNITED STATES OF AMERICA" [sic] and the "United States".

4 Mr. Parisi has produced no evidence Congress has conferred  
5 general Powers of Attorney upon him to represent "UNITED STATES  
6 OF AMERICA" [sic], in Federal Court.

7  
8 Movant conceded, however, in ECF No. 37 page 8 line 9, Mr.  
9 Parisi or "UNITED STATES OF AMERICA" [sic] could demonstrate  
10 standing "by a good-faith showing of any one" of the above; not  
11 even two, as might be required by the rule of corroboration.

12 Courts have held facts alleged to support standing, *if*  
13 *controverted*, must to be proven with the same manner and degree  
14 of evidence required of any other matter on which a party bears  
15 the burden of proof. Ironically, however, Mr. Parisi points to  
16 zero (0) facts in evidence to support any claim of standing and  
17 Movant rebuts any presumption thereof.

18  
19 Rather than disposing with the entire question by an offer  
20 of proof or an offer of any actual constructive evidence, Mr.  
21 Parisi relies solely upon four (4) citations, all of which  
22 appear to be unpublished nonbinding precedent, two of which are  
23 outdated (See L.R. 7.1(g)(2)) and none of which are U.S. Supreme  
24 Court decisions or cases found in a federal register. No U.S.,  
25 F., F. App., F. Supp, F.R.D., or B.R. Nevertheless, Movant  
26 addresses each briefly below.  
27  
28

1 In the first case, UNITED STATES OF AMERICA [sic] v.  
2 Wacker, (1999), the footnote states "this order and judgment is  
3 not binding precedent". Nevertheless, Mr. Parisi states the  
4 following Re: Wacker: "(characterizing as "ludicrous" and  
5 "fanciful" the notion that the federal government lacked  
6 authority because "the United States" and "the United States of  
7 America" are not synonymous terms)".

9 Mr. Parisi's representation of Wacker is either  
10 disingenuous or an honest oversight. The issue of "UNITED  
11 STATES OF AMERICA" [sic] standing was not of itself considered  
12 and the terms "fanciful" and "ludicrous" are amidst the words  
13 "unintelligible" and "incomprehensible" to describe numerous new  
14 "arguments and allegations" which the court declined to consider  
15 "for the first time" upon appeal.

17 In addition, the question before this Court, in this  
18 instant Motion, is not if "the federal government lacked  
19 authority", as Mr. Parisi puts it, but if "UNITED STATES OF  
20 AMERICA" [sic] have or has standing in this instant case.

22 Furthermore, the Federal government may or may not have  
23 authority in any given circumstance, which is a question  
24 entirely independent to whether or not "United States" and  
25 "United States of America" are legally synonymous - which they  
26 are not and Wacker does not reach the argument or venture so far  
27 as to contemplate.

1           As such, the question of whether or not "UNITED STATES" and  
2 "UNITED STATES OF AMERICA" [sic] are legally synonymous remains  
3 unaddressed. We address it here with one simple query:

4           Are "United States" and "United States of America" legally  
5 synonymous as defined by any Act of Congress, particularly in  
6 Title 28 which has established and now governs the entire  
7 Federal Judiciary?  
8

9           The answer is a resounding NO.

10           "United States" at 28 U.S.C. § 1345 and § 1346 refers to  
11 the Federal government, domiciled in District of Columbia.

12           "United States of America" at 28 U.S.C. § 1746 refer to the  
13 fifty (50) States of the Union - without the Federal government.  
14

15           This correct contra-distinction of "United States" and  
16 "United States of America" provides compelling proof that even  
17 Congress knows the difference between the two terms: being  
18 inside the one (1) is outside the fifty (50); and being inside  
19 the fifty (50) is outside the one (1). China and France are  
20 also "without the United States" but so are the fifty (50)  
21 States of the Union, particularly when the context is Federal  
22 municipal law.  
23

24           Hence, Title 28, the law by which this Court has been  
25 established and is governed, recognizes a clear distinction  
26 between "United States" and "United States of America" and so  
27 the Court should recognize the distinction as well.  
28

1 Supporting this distinction, we consider first the  
2 Guarantee Clause where "United States" government and "every  
3 State in this Union" are clearly distinguished:

4 "The United States shall guarantee to every State in this  
5 Union a Republican Form of Government, and shall protect  
6 each of them against Invasion..."

7 White House version of U.S. Constitution, Article IV Section 4

8 The terms "Union" and "United States of America" were  
9 defined together in Bouvier's Law Dictionary:

10 "UNION. By this word is understood the United States of  
11 America; as, all good citizens will support the Union."

12 "UNITED STATES OF AMERICA. The name of this country [not  
13 the name of the Federal government]. The United States [or  
14 "States United"], now thirty-one in number, are Alabama,  
15 Arkansas, Connecticut, Delaware, Florida, Georgia,  
16 Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine,  
17 Maryland, Massachusetts, Michigan, Mississippi, Missouri,  
18 New Hampshire, New Jersey, New York North Carolina, Ohio,  
19 Pennsylvania, Rhode Island, South Carolina, Tennessee,  
20 Texas, Vermont, Virginia, Wisconsin, and California."

21 Bouvier's, U1, page 3 of 14 [Underlining and comments added]

22 Again we visit the Articles of Confederation where "The  
23 United States of America" is clearly defined as the Union of the  
24 States, and the "United States" is clearly the Federal  
25 government:

26 "Article I. The Stile of this Confederacy shall be The  
27 United States of America.

28 "Article II. Each state retains its sovereignty, freedom,  
and independence, and every power, jurisdiction, and  
right, which is not by this Confederation expressly  
delegated to the United States, in Congress assembled."

1 Articles of Confederation, 1771 A.D. [Underlines added]

2 In summary, a reasonable man may conclude the "United  
3 States" and "United States of America" are not synonymous - in  
4 law or history - and are, in ultimate fact, clearly  
5 distinguished from one another. They are incontrovertibly  
6 asynonymous and cannot be one and the same.

7  
8 The U.S. Department of Justice has no general Powers of  
9 Attorney to legally represent any one of the fifty (50) States  
10 of the Union, or all of them collectively, 28 U.S.C. § 547. The  
11 fifty (50) States of the Union are already quite adequately  
12 represented legally by their respective State Attorneys General,  
13 28 U.S.C. § 530B. Congress has never conferred legal standing  
14 upon the entire Republic, nor upon the "United States of  
15 America" to appear as such in any State or Federal Courts; in  
16 this context, cf. *inclusio unius est exclusio alterius* (an  
17 irrefutable inference MUST BE drawn that whatever was omitted or  
18 excluded from a federal statute was intended to be omitted or  
19 excluded by Act of Congress. Accordingly, "UNITED STATES OF  
20 AMERICA" [*sic*] have or has no standing).

21  
22  
23 From Flores-Rosales v. UNITED STATES OF AMERICA [*sic*], Mr.  
24 Parisi offers the following: "*The United States of America is*  
25 *the same party as the United States, and an argument to the*  
26 *contrary is unsupported in law or common sense.*"  
27  
28

1 So blatantly and demonstrably incorrect is this statement,  
2 it may as well be memorialized as the Eighth Wonder of the  
3 World. First of all, The United States of America are a plural  
4 noun, fifty (50) in number, not a singular noun; therefore, it  
5 is grammatically incorrect to say "The United States of America  
6 is..." Common sense dictates that plural and singular be  
7 expressed correctly, in grammar and in spelling, to wit:  
8 "Federal government is"; "fifty (50) States are"; not "Federal  
9 government are"; and not "fifty (50) States is".  
10

11 *Reductio ad absurdum!*

12 As it turns out then, "any argument[s] to the contrary", as  
13 pontificated in Flores-Rosales, are, *in fact*, fully supported in  
14 law, and in common sense, and in verifiable American history  
15 beginning with the Articles of Confederation and the organic  
16 Constitution for the United States of America.  
17

18 In furtherance to the contrary is the U.S. Supreme Court  
19 ruling in Eisner v. Macomber where any legislative attempt (read  
20 also: UNITED STATES DISTRICT COURT) to re-define such integral  
21 terms like "United States" and "United States of America", as  
22 was arbitrarily done in Flores-Rosales, is prohibited.  
23

24 From UNITED STATES OF AMERICA [sic] v. Wright, (1998), Mr.  
25 Parisi offers: "[This] argument [is] patently frivolous and the  
26 motion is summarily denied."  
27



1 It would seem no actual bona fide good-faith argument exist  
2 in support of "UNITED STATES OF AMERICA" [sic] standing. Not  
3 one of the cases Mr. Parisi cites offers anything more than a  
4 summary dismissal. It is curious the U.S. Department of Justice  
5 consistently relies upon third party dictum to dismiss  
6 challenges to "UNITED STATES OF AMERICA" [sic] standing, rather  
7 than offer any substantive evidence of its own.  
8

9 Nevertheless, while the Court may *sua sponte* raise an issue  
10 of standing, it may not prove standing for another party,  
11 particularly one presumably capable of doing so for itself.  
12

13 Finally, in UNITED STATES OF AMERICA [sic] v. Rene  
14 Villanueva-Camacho, Mr. Parisi offers the following: "'The  
15 United States of America' is often referred to as the 'United  
16 States.'" Whether the country is referred to as 'United States  
17 of America,' 'the United States of America,' 'The United  
18 States,' or 'United States,' the meaning is clear and  
19 petitioner's argument is frivolous." [Underline added]  
20

21 With all due respect, this offering is more obtuse than  
22 those which preceded it. The question before this Court is not  
23 whether the United States of America is often referred to in  
24 short as the United States. In addition, the question before  
25 this Court is not "[w]hether the country is referred to as  
26 'United States of America,' 'the United States of America,' 'The  
27 United States,' or 'United States,'" What the Country (not the  
28

1 Federal government) is referred to, in short or in long, bears  
2 little relevance here.

3 The question before this Court is whether or not "UNITED  
4 STATES OF AMERICA" [sic] have or has standing in *this* instant  
5 case; whether or not Plaintiff or Movant served a complaint or  
6 summons upon "UNITED STATES OF AMERICA" [sic] to begin with;  
7 whether or not there exists any legal charter showing United  
8 States Federal government and "UNITED STATES OF AMERICA" [sic]  
9 are legally one and the same; whether Title 28 or any Act of  
10 Congress confers equal legal standing upon "UNITED STATES OF  
11 AMERICA" [sic], to which it [Congress] clearly distinguishes  
12 from the Federal government in 28 U.S.C. § 1746(1); whether  
13 Congress, the U.S. Department of Justice, or even the UNITED  
14 STATES DISTRICT COURT can violate the Eisner prohibition and  
15 arbitrarily assign a novel meaning to "United States" or "United  
16 States of America" contrary their originally intended meanings;  
17 and whether or not Congress has ever conferred general Powers of  
18 Attorney upon Mr. Parisi to represent the Union or this *nom de*  
19 *guerre* "UNITED STATES OF AMERICA" [sic] in Federal Court.

23 If Mr. Parisi *really* believed the "United States" was the  
24 same as "UNITED STATES OF AMERICA" [sic], then why, after the  
25 Court ORDERED: "The United States shall file any response to Mr.  
26 Smith's motion..." (ECF No. 36), did Mr. Parisi begin the first  
27  
28

1 line of his response with "The United States of America, by its  
2 attorney..."? The United States has not filed a response.

3 Mr. Parisi's closing is as curious as his opening. He ends  
4 by quoting Local Rule 83.2(a)(2)... "Any attorney [...] may appear  
5 in this court on behalf of the United States [...] without being  
6 admitted to the bar..." but then immediately follows with: "*For*  
7 *the foregoing reasons, the United States of America respectfully*  
8 *requests...*" Why not simply appear in the manner provided by  
9 Congress, Local Rules, and as ordered by the Court?  
10

11 If the U.S. Department of Justice *really* believed the  
12 "UNITED STATES", as appears before the U.S. Supreme Court since  
13 the Act of June 25<sup>th</sup>, 1948, and "UNITED STATES OF AMERICA" [*sic*],  
14 as appears in UNITED STATES DISTRICT COURT ("USDC"), were *really*  
15 one and the same, certainly they would have no problem showing  
16 up as "UNITED STATES" in this USDC, in this instant case, in  
17 reply to this instant Motion - as provided by Congress in 28  
18 U.S.C. § 1346.  
19

20 Unrebutted stands the allegation of fact, the U.S.  
21 Department of Justice must avoid appearing on behalf of the  
22 "UNITED STATES" in the UNITED STATES DISTRICT COURT lest it  
23 invoke the judicial Power of the United States:  
24

25 "The judicial Power shall extend to all Cases, in Law and  
26 Equity, arising under this Constitution, the Laws of the  
27 United States, and Treaties made, or which shall be made,  
28 under their Authority; -- to all Cases affecting  
Ambassadors, other public Ministers and Consuls; -- to all

1           Cases of admiralty and maritime jurisdiction; -- to  
2           Controversies to which the United States shall be a  
3           Party;"

4 Article III, Section 2 of the U.S. Constitution

5           When the "UNITED STATES" appears, the judicial Power of the  
6 United States extends to all such cases, as required by Article  
7 III. Showing up as "UNITED STATES OF AMERICA" [sic], therefore,  
8 is merely a convenient and deceptive way to avoid invoking the  
9 judicial Power of the United States and, in-stead, invoking the  
10 legislative Power of the United States by virtue of the fact  
11 that the USDC is a legislative tribunal with a constitutional  
12 origin in the Territory Clause of Article IV, Section 3, Clause  
13 2 of the U.S. Constitution.

14           The nail in this coffin comes courtesy of the delegation  
15 order at 28 C.F.R., Part 0.96, which authorizes the Director of  
16 the Bureau of Prisons to take custody of individuals accused or  
17 convicted of offenses against the "United States". The  
18 delegation order at 28 C.F.R., Part 0.96b, authorizes the  
19 Director to take custody of offenders from the "United States of  
20 America" under provisions specified in a treaty authorized by  
21 Public Law 95-144. The Director acts as agent of the United  
22 States in this transfer process. Under terms of Public Law 95-  
23 144, whoever is transferred from "United States of America" to  
24 United States custody must sign consent prior to their transfer.  
25  
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1 This use of the two terms "United States" and "United  
2 States of America" in the same regulation clearly distinguishes  
3 one from the other. This new "United States of America" is  
4 territorial; as agent of the United States, the Director is  
5 authorized to transfer offenders to and from the "United States  
6 of America" to "United States" custody, "United States of  
7 America" jurisdiction is therefore foreign to "United States"  
8 jurisdiction, yet this "United States of America" evidently has  
9 authority to effect treaties under Public Law 95-144. It is  
10 therefore political in nature. It is a power foreign to the  
11 Constitution of the United States and the Union of several  
12 States party to the Constitution that has no constitutional  
13 standing or authority in the several States whatsoever. If  
14 there were no other evidence, Attorney General Delegation orders  
15 at 28 C.F.R., Parts 0.55, 0.64-1, 0.64-2, 0.96 & 0.96b  
16 conclusively proves this conclusion.

17  
18  
19 The D.O.J. knows very well the "UNITED STATES" and "UNITED  
20 STATES OF AMERICA" [sic] are not the same, which is why, as its  
21 *modus operandi*, it never offers any actual facts or evidence to  
22 prove standing when challenged. Rather, it points with Cheshire  
23 Grin to third-party proclamations, wherever they may be found,  
24 in hopes the Court will take its cue and answer the same. Such  
25 an act is effectively a FRAUD upon the Court for "failure to  
26 disclose what SHOULD be disclosed".  
27  
28

1 While the U.S. Department of Justice may attempt to paint  
2 this argument absurd, it could easily dispose of the entire  
3 question by simply offering actual constructive evidence of  
4 standing or by appearing as "UNITED STATES" rather than "UNITED  
5 STATES OF AMERICA" [sic] to begin with.

6 What is absurd... is its continued refusal to do *either* while  
7 it leaves the USDC to fight its battles for it - which the USDC  
8 is technically barred from doing. The U.S. Supreme Court has  
9 prohibited the re-defining of integral terms used in the U.S.  
10 Constitution like "United States" and, as such, both the D.O.J.  
11 and the USDC are prohibited from arbitrarily and capriciously  
12 declaring "United States" to be synonymous with "United States  
13 of America". They are not one and the same, neither in fact,  
14 law, statute, regulation, history, commerce, or common sense.  
15 We must conclude therefore, that "UNITED STATES OF AMERICA" [sic]  
16 is entirely something else.

17 Mr. Parisi has failed to meet his burden of proof that  
18 "UNITED STATES OF AMERICA" [sic] *have* or *has* standing or that  
19 Mr. Parisi has Power of Attorney to represent the same.

20 No facts in evidence.

21 As such, "UNITED STATES OF AMERICA" [sic] is a third party  
22 interloper that, having never been summoned by Movant in this  
23 action, is not a proper party and has no standing.

1           Furthermore, while Local Rule 83.2(a)(2) states Mr. Parisi  
2 may appear without being admitted to the bar on behalf of the  
3 "United States", it does not say he may appear without being  
4 admitted on behalf of the Union or any other entity, in  
5 particular, "UNITED STATES OF AMERICA" [sic].

6           WHEREFORE, because "UNITED STATES OF AMERICA" [sic] has not  
7 met its burden of proof as a proper party with standing; and  
8 because standing can be raised by any party at any time; and  
9 because the United States was properly served through the U.S.  
10 Attorney's office yet refused and refuses still to appear; and  
11 because the Court ordered the United States to answer Movant's  
12 motion but United States refused to answer; and because the  
13 presumption of standing has been rebutted and still no fact of  
14 standing appears in evidence; and because Local Rules do not  
15 provide for Mr. Parisi to appear for "UNITED STATES OF AMERICA"  
16 [sic] without being admitted to the bar; and because certain  
17 actions or inactions may have constituted a fraud upon the  
18 court, it is Prayed this Honorable Court strike Mr. Parisi's  
19 Notice of Appearance, subsequent filings, oral arguments, and  
20 witness testimony proffered on behalf of the interloper, "UNITED  
21 STATES OF AMERICA" [sic].

22           Furthermore, for all reasons stated previously and because  
23 no facts or counter affidavits were filed in opposition to  
24 DANIEL SMITH'S AFFIDAVIT OF FACTS (ECF No 18), dated September  
25

1 21, 2011, and because Mr. Parisi's first convening of a Grand  
2 Jury six (6) months ago did not return an indictment and this  
3 was not disclosed at the hearing but should have been, it is  
4 Prayed this Honorable Court 1) order the unsealing of any  
5 remaining warrants pertaining to Movant, 2) call for the  
6 immediate cessation of D.O.J.'s bad-faith, due process-less  
7 prosecution, See 21 U.S.C. §335, and 3) enter a Default Judgment  
8 in favor of Movant in accordance with the remaining pleadings of  
9 record.  
10

11 DATED this 1<sup>st</sup> day of March, 2012 A.D.:

12  
13 Respectfully submitted,

14  
15  
16 By: \_\_\_\_\_

17 L. Daniel Smith  
18 *In Propria Persona*  
19 c/o: 1314 South Grand Blvd.  
20 Suite 2-128  
21 Spokane [99202]  
22 WASHINGTON STATE, USA  
23  
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1 CERTIFICATE OF SERVICE

2 I hereby certify that I caused a true and correct copy to  
3 be served by hand and/or by mail to:

4 U.S. Attorney's Office  
5 Eastern District of Washington  
6 Thomas S. Foley U.S. Courthouse  
7 920 West Riverside Avenue  
8 Spokane, WA 99201

9 Respectfully submitted,

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11 L. Daniel Smith  
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