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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 United States of America,
10 Plaintiff,

No. CV-24-00427-TUC-CKJ

ORDER

11 v.

12 \$10,951.00 in United States Currency,
13 Defendant.
14

15 On October 17, 2024, the Plaintiff filed a Motion for Status Conference. The Court
16 denies the motion without prejudice.

17 The Government filed this action on August 26, 2024, as a civil *in rem* forfeiture
18 complaint against the defendant property, \$10,951.00. It mailed Notice of Forfeiture Action
19 to Adril Delgado Gutierrez, who resides in Mexico, and Gabriela Viviana Soltero, who
20 resides in southern Arizona. The subject of the forfeiture, \$10,951.00, was transported by
21 Soltero into the country through the Mariposa Port of Entry, Nogales, Arizona. At the time
22 of the seizure, Soltero stated that the money belonged to someone else. According to
23 Plaintiff, Soltero has provided a signed statement that the money belongs to Delgado.
24 (Motion, letter (Doc. 7-1)).

25 According to the Plaintiff, the acknowledgement of service of the Notice was not
26 signed and returned by Soltero, but on September 13, 2024, she went to the U.S. Attorney's
27 office, Tucson, Arizona, and requested assistance in filing a claim for the \$10,951.00. She
28 returned on October 3, 2024, and submitted two hand-written notes, one in English and one

1 in Spanish. The Court finds that Soltero was served with the Notice of Forfeiture, which
2 also included a copy of the Complaint for forfeiture.

3 The Notice provides: “In order to avoid forfeiture, you must file a verified claim
4 within 35 days of the date of this notice. An answer or a motion under Rule 12 must be
5 filed, and served, no later than twenty-one (21) days after filing the claim. If you fail to do
6 so, judgment by default will be taken against you for the relief demanded in the complaint.
7 You must file your claim against the property, and answer, with the Clerk of this Court and
8 provide a copy to the government attorney.”

9 The Notice also provides that to make a claim, she must: “(A) identify the specific
10 property claimed; (B) identify the claimant and state the claimant’s interest in the property;
11 (C) be signed by the claimant under penalty of perjury; (D) be served on the government
12 attorney designated under Rule G(4)(a)(ii)(C) or (b)(ii)(D), in this case, Assistant United
13 States Attorney Matthew G. Eltringham at 405 West Congress Street, Suite 4800, Tucson,
14 Arizona 85701-5040.”

15 The letter given to the United States Attorney is not signed by the claimant under
16 penalty of perjury. It does, however, identify the specific property claimed, \$10,951.00. It
17 states that she and Adril Delgado Gutierrez, who is her brother-in-law, claim the money.
18 She was transporting the money to buy cars for Delgado’s car sales “with part of it.”
19 (Motion, letter (Doc. 6.1)). This suggests there may have been a bailment of the money by
20 Delgado to Soltero. “A claim filed by a person asserting an interest as a bailee must identify
21 the bailor, and if filed on the bailor’s behalf must state the authority to do so.” *Id.*

22 To be clear, the letter given to the United States Attorney does not establish a
23 bailment. Soltero, if she appears pro se (without counsel), may not represent another person
24 in this action. *See Johns v. County of San Diego*, 114 F.3d 874, 877 (9th Cir. 1997) (quoting
25 *C.E. Pope Equity Trust v. United States*, 818 F.2d 696, 697 (9th Cir.1987) (citing general
26 rule that “a non-lawyer ‘has no authority to appear as an attorney for others than himself”).
27 Even “a nonattorney parent must be represented by counsel in bringing an action on behalf
28 of his or her child.” *Id.* at 876 (quoting *Osei-Afriyie v. Med. Coll.*, 937 F.2d 876, 882–83

1 (3d Cir. 1991)). In other words, if Soltero cannot establish a bailment, she cannot seek
2 return of the money, or a part of the money, on behalf of her brother-in-law, Delgado.
3 Sotero may only claim her part of the \$10,951.00. Only Delgado may claim property
4 belonging to him.

5 The Motion for Status Conference reflects there may be some confusion as to
6 whether Soltero has filed a claim for herself and/or for both Delgado and her by presenting
7 the letter to the Government at its Tucson office. Section 983(a)(4)(A) of the statute
8 provides: “In any case in which the Government files in the appropriate United States
9 district court a complaint for forfeiture of property, any person claiming an interest in the
10 seized property may file a claim asserting such person's interest in the property in the
11 manner set forth in the Supplemental Rules for Certain Admiralty and Maritime Claims....”
12 18 U.S.C. § 983(a)(4)(A). In other words, Soltero must state her claim by filing an answer
13 in this action. The Court finds the letter submitted on October 3, 2024, triggered the start
14 of the 20-day time period to file and serve an answer or a motion under Federal Rule Civil
15 Procedure, Rule 12, in this case. The Court shall extend this time due to the confusion and
16 because it appears that Soltero and/or Delgado may have a claim to the \$10,951.00 or parts
17 of it. If either Soltero or Delgado want to proceed with claims in this forfeiture action, they
18 are advised to review The Handbook for Self-Represented Litigants, Chapter 10, which
19 may be found on the Court’s website: www.azd.uscourts.gov.

20 Failure to file an answer or responsive motion in this action may result in your claim
21 to the \$10,951.00 being denied and a default judgment of forfeiture being entered in this
22 case. Fed. R. Civ. P. 55.

23 In the event you proceed with a claim by filing an answer or motion in this action,
24 you must follow the Federal Rules of Civil Procedure and the Local Rules of Practice for
25 the U.S. District Court of Arizona (local rules). They may be found on the Court’s website
26 by typing “Local Rules” or Federal Rules of Civil Procedure” in the search bar and
27 navigating to Rules, General Orders & Forms.” You should take special notice of Local
28 Rule 7.2 which provides specifics for civil motions, especially subsection (i) which

1 provides that failure to file a timely response, or any other such non-compliance, "may be
2 deemed a consent to the denial or granting of the motion and the Court may dispose of the
3 motion summarily." This means, that any motion filed by the Plaintiff may be summarily
4 granted against you if you fail to respond to the Complaint within the allotted time for
5 responding (usually 14 days).

6 "District judges have no obligation to act as counsel or paralegal to pro se litigants"
7 because this would undermine district judges' role as impartial decisionmakers. *Pliler v.*
8 *Ford*, 542 U.S. 225, 231 (2004). Therefore, the Court advises you to refer to its website,
9 especially the Handbook for Self-Represented Litigants and the rules that are posted there.

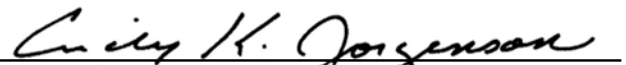
10 **Accordingly,**

11 **IT IS ORDERED** that the Motion for Status Conference (Doc. 7) is DENIED
12 without prejudice.

13 **IT IS FURTHER ORDERED** that the time for filing an answer or motion in this
14 action is extended to November 18, 2024. Failure to file an answer or motion in this action
15 may result in dismissal of any claims, default, and the Court's entry of a judgment of
16 forfeiture in this case.

17 **IT IS FURTHER ORDERED** that this Order shall be sent to Gabriela Soltero and
18 Adril Delgado Gutierrez at the addresses provided below.

19 Dated this 26th day of October, 2024.

20
21 
22 Honorable Cindy K. Jorgenson
23 United States District Judge

24
25 Cc:

26 Gabriela Viviana Soltero
27 567 Camino Lito Galindo
28 Rio Rico, AZ 85648

Adril Delgado Gutierrez
Col Luis Donaldo Colosio 84066 Lito Galindo
Nogales, Sonora, Mexico