No. 09-56827

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

Pamela Barnett, Alan Keyes et al.,

Plaintiffs-Appellants,

vs.

Barack Obama, et al.,

Defendant-Appellee.

APPELLANTS' OPENING BRIEF

Appeal from Final Judgment of the United States District Court, Central District of California, Honorable David O. Carter District Court No. CV-09-82

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CORPORATE DISCLOSURE STATEMENT

This statement is made pursuant to Federal Rule of Appellate Procedure 26.1. Plaintiffs -Appellants are individuals. Among the plaintiffs there are no corporate entities, subsidiaries or affiliates that have issued shares to the public.

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Statement of Jurisdiction

9th Circuit Court of Appeals has jurisdiction, as this is an appeal of the final order from the Central District of California

Statement of Jurisdiction of the District Court

District Court had jurisdiction as the matter at hand involves Federal issues and Diversity of state citizenship of Plaintiffs and Defendants.

Statement of the case

This case was filed on behalf of a group of over 40 plaintiffs: officers and enlisted of the US military, State Representatives from all over the Nation, Ambassador Alan Keyes, Presidential candidate of the American Independant Party in the 2008 Presidential election, Gail Lightfoot, official write in Vice presidential candidate on the ballot for Ron

Paul . All of those candidates were seeking a judicial review and declaratory relief on the issue of legitimacy for the US presidency and position of the Commander-in-Chief by Barack Hussein Obama. (Hereinafter Obama). Obama has never provided proof of his legitimacy. There is ample evidence of his illegitimacy to US presidency, due to his use of another person's social security number and lack of a valid social security number from HI specifically issued to Barack Obama; due to lack of his long form Birth Certificate with the name of a doctor and hospital, due to thefact that his mother's passport records show a different last name for him and other records and National databases show him using multiple Social Security numbers, several different names, different birthdates and different countries of origin.

District office showed bias, lack of impartiality, was under undue influence from Obama administration, hired one of the attorneys working for Obama defense firm as a law clerk, drafting the opinion for the presiding judge and used personal attacks on the plaintiff's counsel. As a result, the decisions made in the District court, were made in error and need to be overturned or the case needs to be remanded back to the District court for reconsideration.

Statement of the issues

District court acted with bias, lack of impartiality, under duress and under improper and undue influence from Obama administration and completely misrepresented most issues in the case, engaged in personal attacks on the Plaintiffs and the Plaintiff's counsel, defrauded the plaintiffs and the Plaintiff's counsel and improperly dismissed the case. Since the Appellant's brief is limited to only 30 pages of the argument, and there were numerous examples of undue influence on the presiding judge by Obama administration,

bias, abuse of Judicial discretion and plain errors of fact, misrepresentations of facts and errors of law, the appellants will be able to provide only a succinct overview of all those facts and issues and are asking an oral argument, in order to provide a more full account of the issues and arguments.

Legal Argument

A. Obama never proved his Natural Born Citizen status and illegitimate for US presidency

Article II, Section 1, paragraph 5 of the U.S. Constitution states:

No person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty-five Years, and been fourteen Years a Resident within the United States." At the time of the adoption of the Constitution of the United States, legal dictionary-encyclopedia most widely used by the framers of the Constitution, was The Law of Nations by Emer DeVatel, which defined Natural Born Citizen as "one born in the country to parents, who are citizens of the country" id Emer De Vatel The Law of Nations, Vol 1, Chapter 19, §212 p499, meaning he has to show both "Jus Solis" and "Jus Sanguinis". Since Obama's father was never a US citizen, Obama did not qualify as a Natural Born citizen. At best he would qualify only as a Native Born-meaning born in US, 'Jus Solis," but with foreign allegieance, no "Jus Sanguinis". Article 1, section 8 of the Constitution mentions The Law of Nations as a reference. Letters of Confederacy mention a letter written by the first Chief Justice of the Supreme Court John Jay to George Washingto, where he

states"Permit me to hint, whether it would be wise and seasonable to provide a strong check to the admission of foreigners into the administration of our National Government. And to declare expressly that the Commander in Chief of the army should not be given to nor shall devolve on, any but a Natural Born Citizen". This shows, that the framers of Constitution used the Vatel definition of the Natural Born Citizen, as one without foreign allegiance. As Obama had British Citizenship at birth, due to the fact that his father was a British subject from the British Colony of Kenya, and due to the fact that he had Kenyan citizenship since age two and Indonesian citizenship since age five, he is not a Natural Born citizen and illegitimate to US presidency.

It is impossible for Obama to be a "natural born Citizen" if he was born with dual citizenship. Since Obama has never shown his original birth certificate, we also do not know his actual age and we don't know if he is even a Native Born citizen. Recently, at the March 25 session of the assembly of the Republic of Kenya Minister of Lands James Orengo stated: "If America was living in a situation where they feared ethnicity and did not see itself as a multiparty state or nation, how could a **young man, born here in Kenya, who is not even a Native American, become the President of America?"** This statement from the high ranking governmental official of Kenya confirmed, what the plaintiffs were saying all along, that Obama is not a Natural Born Citizen and most probably he is not even a "Native Born" citizen. At best, he is a Naturalized citizen and illegitimate for US presidency, and this matter has to be heard on the merits, to ascertain, whether massive fraud was committed by Obama prior to election in order to get into the White House. This is the essence of Obama's illegitimacy for US Presidency.

B. Court erred in denying request for default judgment against the defendant Barack Obama

Complaint was filed on January 20, 2009, inauguration day. Obama was sued as an **individual** for **his actions prior to taking office**. Defendant was properly served at his residence, at the White House, and was supposed to hire a private attorney to represent him. Complaint contained information, showing that Obama never provided to the public or any other authorities any of his vital records. The affidavit of licensed investigator Neil Sankey (part of the certified docket on appeal) showed that Obama has used multiple Social Security numbers, none of which were issued in HI, where Obama claimed to be born. Affidavits of a Senior Deportation officer of the Department of Homeland Security John Sampson (Ret) (Appendix #4) and Licensed investigator certified with the department of Homeland Security Susan Daniels (Appendix #3) showed that the Social Security number Obama used most often, and is still using today while in the White House #042-68-4425 was issued in the state of CT to another individual, while Obama resided in HI. Obama refused to unseal his original birth certificate, supposedly issued to him at Kapiolani hospital, in HI. Considering the fact that the state of HI statute 338-17 allows a foreign born child of HI resident to obtain a HI birth certificate, and that one could have been obtained based on a statement of one relative only, based on statute 338-5, there was a reasonable doubt in Obama's legitimacy and a high likelihood that Obama indeed committed massive fraud by getting into the White House in the position of the President and Commander in Chief without proper documents and by obfuscation of records. Sworn Declaration by a forensic document expert Sandra Ramsey Lines (part of the certified official record) states that the abbreviated Certification of Life Birth, issued

only in 2007 and provided by Obama to the public, cannot be considered a genuine proof of his birth without seeing the original, currently sealed in the Health Department in HI. Obama categorically refuses to provide access to his sealed original Birth Certificate. On 05.27.09, Taitz, attorney for the Plaintiffs, filed a motion for default judgment. Motion was not granted. On 06.11.09 she filed a renewed motion for reconsideration of entry of default. Court erred in not granting the motion, as the Defendant was served already and simply didn't respond. Court scheduled a motion hearing in regards to motion for default or alternatively request for certification of the interlocutory appeal on the issue of refusal by the District Court to issue a default judgment, to be heard on 07.13.09.

At the time of the hearing Obama was cornered. He could not send an attorney to represent him, as it would be evidence of him being served and defaulting on providing timely answer, so he simply played a dirty game. An assistant US attorney was dispatched by Holder Justice Department. This assistant US attorney David DeJutte, showed up at the hearing supposedly **not on behalf of the defendant Obama**, but on behalf of the United States of America. While officially DeJutte and US attorney's office represented the United States of America, in reality **they acted against the interests of the United States of America**. DeJutte demanded that Taitz serve Obama, yet again, but that **she serve him via the US attorney's office under rule 4 I- as a governmental official for acts performed on behalf of the United States and not under rule 4E as an individual.**

4(e) Serving an Individual Within a Judicial District of the United States.

Unless federal law provides otherwise, an individual — other than a minor, an incompetent person, or a person whose waiver has been filed — may be served in a judicial district of the United States by:

- following state law for serving a summons in an action brought in courts of general jurisdiction in the state where the district court is located or where service is made; or
- doing any of the following:
    - delivering a copy of the summons and of the complaint to the individual personally;
    - leaving a copy of each at the individual's dwelling or usual place of abode with someone of suitable age and discretion who resides there; or
    - **delivering a copy of each to an agent authorized by appointment or by law to receive service of process. (i) Serving the United States and Its Agencies, Corporations, Officers, or Employees.**
- **United States.**
- To serve the United States, a party must:
    - (A)
    - deliver a copy of the summons and of the complaint to the United States attorney for the district where the action is brought — or to an assistant United States attorney or clerical employee whom the United States attorney designates in a writing filed with the court clerk — or
    - send a copy of each by registered or certified mail to the civil-process clerk at the United States attorney's office;
    - (B) send a copy of each by registered or certified mail to the Attorney General of the United States at Washington, D.C.; and
    - if the action challenges an order of a nonparty agency or officer of the United States, send a copy of each by registered or certified mail to the agency or officer.
- **Agency; Corporation; Officer or Employee Sued in an Official Capacity.**
- To serve a United States agency or corporation, or a United States officer or employee sued only in an official capacity, a party must serve the United States and also send a copy of the summons and of the complaint by registered or certified mail to the agency, corporation, officer, or employee.
- **Officer or Employee Sued Individually.**
- To serve a United States officer or employee sued in an individual capacity for an act or omission occurring in connection with duties performed on the United States' behalf (whether or not the officer or employee is also sued in an official capacity), a party must serve the United States and also serve the officer or employee under Rule 4(e), (f), or (g).

Taitz properly argued, that she was under no obligation to serve Obama under 4I, since she was suing him for his acts, committed **prior to him getting in office, and for something that he did on his own behalf, in order to get into office, not on behalf of the United States of America. He acted not on behalf of the office, but to sneak into office without any verifiable proper vital records. Clearly, the United States of America and people of United States of America did not ask Obama to defraud them and didn't ask Obama to conceal his original birth certificate.** He was sued as an individual, didn't respond., therefore default was the only appropriate outcome. "In all other cases, the party must apply to the court for a default judgment. A default judgment may be entered against a minor or incompetent person only if represented by a general guardian, conservator, or other like fiduciary who has appeared. If the party against whom a default judgment is sought has appeared personally or by a representative, that party or its representative must be served with written notice of the application at least 3 days before the hearing. The court may conduct hearings or make referrals preserving any federal statutory right to a jury trial when, to enter or effectuate judgment, it needs to:

(A) conduct an accounting;

(B) determine the amount of damages;

(C) establish the truth of any allegation by evidence; or

(D) investigate any other matter. "

So all that Judge Carter had right to do according to FRCP, was

1. grant the motion for default judgment

2. deny the motion for default judgment and certify the question for appeal

3. or conduct hearings or make referrals when to make a judgment, it needs to establish the truth of any allegation by evidence or investigate any other matter.

Court had no right to pressure Taitz into serving Obama yet again. Actions by the court were error of law and represented bias against the plaintiffs and flagrant abuse of judicial authority.

Taitz demanded default judgment or leave of court to file an interlocutory appeal. Taitz argued that it was not only the matter of Obama showing disrespect to the court and the process and refusing to answer to the complaint, but also the matter of him not being entitled to get defense at the expense of the taxpayers. Obama did not seal all of his records to somehow benefit the people of the United States of America, but rather to benefit himself and to the detriment of the United States of America.

As Taitz was adamant in her refusal to serve the US attorney and demanded either default judgment or certification of appeal, presiding Judge David O. **Carter abused his judicial discretion, showed bias towards the defendant, and applied an enormous pressure on Taitz to make her agree to what the Holder Department of Justice was demanding. (Appendix Transcript of July 13, 2009 hearing)**

Judge Carter **threatened** Taitz, that if she did not agree, he will dismiss the case, as not served properly and the **case would sit for a year in the 9th Circuit Court of Appeals.** He was stating, that if she wants the case to be resolved quickly, she had to agree to serve the US Attorneys' Office "**the way they want"** and he promised the case will be heard expeditiously. Taitz argued, that she witnessed how the US Attorneys Office dragged its feet and sought to dismiss a similar case filed in New Jersey by an attorney Mario Apuzzo. The US attorney was arguing lack of standing and lack of jurisiction there, and Taitz was certain that the moment she serves US Attorneys Office, they will seek to throw this case out of court based on technicality, such as standing or jurisdiction, the case would never see the light of day, meaning that there will be no discovery on the merits. Three times on the record and in presence of multiple witnesses in the courtroom, Judge Carter assured Taitz and witnesses that the case would be heard on the merits, that

there is jurisdiction here. Judge Carter repeatedly stated, that there is jurisdiction here and it is important for the military and for the country as a whole to know whether Obama is legitimate for the position: "if he is not legitimate, he needs to be removed from there." Taitz was suspicious and argued, that the only thing the plaintiffs were looking for, was production of vital records. There was no justification not to give Taitz default judgment and conduct post judgment discovery. Clearly Obama was served with the pleadings, as he sent the US attorney, but he did not file an answer, plaintiffs were entitled to the default. If Obama has in his possesion proper records, there was no harm done by issuance of the default judgment. If Obama did not have proper vital records, Obama will be shown to be ineligible and the whole issue would be resolved expeditiously..

At that point Carter simply threatened Taitz and stated that if she did not agree to serve US attorney's office, he would dismiss the case. It was a clear intimidation and duress applied on the Plaintiffs' attorney by the presiding federal judge.

Taitz worst fears came true. After Taitz under duress by judge Carter served the US Attorneys office with the complaint, they promptly turned around and filed a motion to dismiss due to lack of jurisdiction and lack of standing, which was promptly granted by Judge Carter**. Taitz, her clients and the whole Nation were simply defrauded by the court. To add insult to injury Carter used his final order to denigrate Taitz.**

C. Actions by the Court and the US Attorneys Office were against public policy and represented a clear conflict of interest between the interest of Obama, who was using the Department of Justice to defraud American Citizens and between

American Citizens, who were supposed to be represented by the Department of Justice.

US Attorneys' Office was created to protect the people of the United States. In the matter at hand US Attorney's office was used as a tool to continue defrauding the people of the United States and to act as a private attorney for Mr. Obama, to protect him and shield him from any actions by the citizens in relation to fraud that he committed in order to get into office. To add insult to injury, Department of Justice was handsomely paid by **the taxpayers**, who were denied justice, denied their day in court, told that all of them have no standing to question, but they do have standing to work, so their hard earned tax dollars will be used by Obama, by Holder Department of Justice and by the Court to continue defrauding US citizens.

D. The most flagrant expression of Undue Influence, abuse of Judicial Discretion, Bias, lack of impartiality, was use of an attorney from the Defendant's law firm, as a law clerk for the presiding judge.

While, originally the presiding judge, David O. Carter, seemed to be willing to show some impartiality, it quickly dissipated from the beginning of October 2009, when judge Carter hired as his law clerk, an attorney Sidharth Velamoor, employee of Perkins Coie, a law firm, that represented Obama in most of the litigations where Obama's eligibility was challenged. Moreover, White House counsel Robert Bauer is a senior partner in Perkins Coie and personally opposed Taitz and Kreep in a prior similar action. Velamoor not only came from Obama's defense firm, he also had a peculiar similarity to Obama in his education and background. Velamoor is listed in some of his curriculum

vitae as graduating from Columbia law school, while others showed him graduating from an obscure Commenis law school in Slovakia. Obama is known as a person, who has sealed most of his vital records, among them his Columbia university records. It is not clear how much time Obama spent, actually studying at Columbia University, how much did he spent abroad, specifically in Pakistan, and got equivalency credits from Columbia, just as Velamoor.

Additionally, Obama's official biography shows him growing up in HI, however Registrar of Records of the University of HI shows his mother, Stanley Ann Dunham dropping out of the University around December 1960, not attending any schools for some 9 months and enrolling in the University of Washington State in the end of August of 1961. Dunham had ties to Seattle, WA area, where she lived and studied in High School at Mercer Island WA. Sidharth Velamoor, new clerk for Judge Carter, not only worked for Obama's defense firm, went through the same academic program, but also came from the same tiny community of Mercer Island, WA, where Ann Dunham lived and where Obama lived as a baby.

As the court reads the final order, it becomes obvious, one does not have to be a Perry Mason, does not have to be a licensed attorney, to know, that the order was written by the defense attorney and rubber stamped by the judge.

The order showed impermissible bias and personal attacks on the plaintiff's attorney, conclusions and innuendos, drawn from the material not on the record and not part of the docket. Interestingly, this opinion written by the defense attorney attempted to elevate Gary Kreep, who joined this case in September, by making a deal with 2 out of 42 plaintiffs to represent them, and who had an interpretation of the "Natural Born Citizen",

which was most beneficial for the defense, for Obama, but the same order contained vicious attacks against Taitz, who brought forward **Vattel theory, which was the most detrimental for Obama**. According to the definition by Emer de Vatel, it is not enough for one to be born in the country, both of the parents had to be the citizens of the country. If this case were to go to the jury, and Vatel theory were to be adopted, Obama would be deemed ineligible, regardless of the place of his birth, as Obama's father was never a US citizen and didn't even have a green card. Additionally, Kreep has chosen not to touch the issue of the Social Security fraud and in his pleadings talked only about eligibility. Taitz, in her pleadings brought forward the issue of Obama's use of multiple Social Security numbers, including the fact that he resides today in the White House using the social security number 042-68-4425, issued in the state of CT to another individual (see Affidavits of licensed investigators Susan Daniels, John Sampson, Neil Sankey). Those charges were the basis of the RICO part of the complaint. If discovery was granted, it could easily end up with criminal charges against Obama, so Taitz was much more dangerous for the defense, than Kreep. So, Velamoor, defense attorney, planted as a law clerk for the presiding judge, made a conscience effort to elevate Kreep and do a hit job against Taitz. After the final order was issued, Taitz was made aware of the connection between Judge Carter's clerk and the defendant. This was a clear justification and basis for reconsideration. Taitz promptly filed a motion for reconsideration. Presiding judge completely ignored this matter. Planting Perkins Coie attorneys as law clerks or investigators in legal or quasi judicial proceedings against dissidents, against political opposition to Obama regime, became a weapon of choice. Just as Velamoor was used to write a hit piece against Taitz, another Perkins Coie attorney was used to conduct an

"investigation" (more appropriately witch hunt) against Governor Sarah Palin. The only difference was, in that Palin has chosen to resign, Taitz has chosen to stand firm and fight this legal mafia.

As such, as the order was prepared by Velamoor, it was tilted to present Kreep and his theory, favorable for the defense, in the most positive light and to show Taitz and her theory most detrimental for the defense, in most negative light.

Without even going into the specifics of the case, this was such an impermissible abuse of Judicial discretion, undue influence and bias, that hire of Velamoor by itself constituted a significant ground for setting aside the order to dismiss and remanding the case back to the district court to be reconsidered by a different judge working with a different law clerk, not tied to the defense and to the White House counsel. Using an attorney, working for the defendant's law firm meant clear violation of the plaintiff's due process rights under the 14th amendment and violation of their civil rights under the color of authority. As such, a copy of this complaint is forwarded to the Public Integrity unit of the Department of Justice and Civil Rights Commission in the US and to the Raporteur for the Civil Rights defenders of the United Nations..

As of today there were over a 100 legal actions deeming Obama to be ineligible for US presidency and committing fraud and obfuscation of vital records in order to get onto the White House. There were at least 18 attorneys involved in those cases and the judges simply didn't want to touch this issue. There is little hope that any court will have any courage to touch this issue. The case itself is rather simple: it is a case of fraud. There are no complicated legal doctrines. It is simply the fear of the judiciary to go against the establishment, and loss of the separation of powers between the branches of the

government. As such this appeal is being forwarded to the Civil Rights Defenders Raporteur of the United Nations and the International Criminal Bar Panel in Hague. It is also being forwarded to some 36,000 media outlets around the world to show the World Community the new lows reached by the US judiciary.

E. Court erred in not providing the Appellants an opportunity to file second amended complaint.

Court erred in not taking into consideration the tremendous difficulty for the Plaintiffs to gather any information, any evidence, as the case relates to the sitting President of the United States. Court has placed the plaintiffs in an impossible situation, where it did not give the plaintiffs an opportunity to conduct discovery or file a second amended complaint, later in its order to dismiss the court chastised the plaintiffs for not providing more information and argument on RICO claim. Above actions by the court greatly undermined the case and constituted denial of due process. This Honorable court is requested to find that denial of right to file second amended complaint was an error on part of the court.

F Court erred in granting defendants motion to dismiss

1. The court has misstated the main argument of the case. The court states that the court has no jurisdiction to remove **duly** elected president. That is a complete misinterpretation of the plaintiffs' argument, probably done by the biased clerk. In reality the whole argument and plea, is for the court to decide, **whether the person residing in the White House is duly elected**. If he got there by virtue of massive fraud, he has no right to be there and people who voted for him had no right to vote for him. The plaintiffs asked for the judicial determination, for the declaratory relief.

In Clinton v Jones Supreme Court The unanimous court held "that a sitting President of the United States has no immunity from civil law litigation against him, for acts done before taking office and unrelated to the office." Fraud committed by Obama, took place before he got into office and it was not in furtherance of the office of the president, it was for him to further himself into the office of the President. Just as when one forges a deed to a house, the rightful owner is justified in going to court for as long as it takes to achieve justice and remove the forger and the thief from his house. No judge will be justified in intimidating or sanctioning the owner of the house for going to court to seek resolution on the merits. Similarly**, "we the people" are the rightful owners of the White House** and have the right to go to the authorities and the courts to seek the **resolution on the merits** for as long as it takes and to remove one who got there by virtue of **fraud**. It is ludicrous to believe that any judge has any justification to attack the citizens, to sanction civil rights attorneys for what is clearly the pursuit of one of the most sacred Constitutional rights, right for Redress of Grievances, guaranteed to the US citizens by the First and Ninth amendment of the Constitution. Saying that no citizen in the country has standing and no court has standing is error of law. The court has erred in not taking into account the October 5th oral argument by the undersigned attorney in that California Choice of law rules require District of Columbia Law be applied to DC defendants. Constitution is a contract between "we the people" and the government. Natural Born citizen clause is an integral part of this contract. California Supreme Court adopted the rule laid out in §187 of the restatement of the Conflict of

Laws.. Under §188, the law of the state with the most significant relationship to the transaction at issue is applied. California has adopted the rule of §188. *Edwards v. United States Fidelity and Guar. Co*., 848 F. Supp. 1460 (ND Cal. 1994); *Stonewall Surplus lines Ins. Co v Johnson Controls.* Inc., 14 Cal. App. 4th 637, 17 Cal. Rptr.2d 713(1993). This is a case with diversity of parties and the court can make a determination of a choice of law. As such it was proper to choose DC law, which includes Quo Warranto provision. The interest of judicial economy and National Defense as well as the interest of National security particularly in light of latest slaughter of 13 soldiers at Fort Hood by Nidal Malik Hasan, recent arrest of New York city attempted bomber, Christmas Day bomber and finally Obama's very questionable decision to redirect NASA from reaching for the stars to reaching to Muslim countries, which are swamped with radical Muslim terrorists, whom we are fighting on two fronts in Iraq and Afghanistan, made it a necessity, to elect to follow DC law and proceeding in Quo Waranto under DC statute 16-3503, as it related to the defendant -Apellee Obama, resident of Washington DC.

G. Court erred in refusing to use CA choice of law. And not considering 18 USC §1346

The court erred in not taking Judicial notice of 18 USC §1346; Intangible Rights Fraud-as individual damages are not required in Public Sector Mail and Wire Political corruption.

Mr. Obama's use of multiple Social Security numbers, including the Social Security numbers of the deceased individuals, his obfuscation of all the vital records and use of computer images of records that cannot be considered genuine according to the experts

constitute individual predicate acts under Civil R.I.C.O. , 18 U.S.C.§§1961,1962(a)-(d), and 1964(c)., which gives standing to every member of the public at large. Denial of standing was an error of law. Court did not provide any explanation, as to why it denied this cause of action.

H. In the October 29 order the court made an erroneous and prejudicial statement regarding the service of process by the plaintiffs.

At the hearing the court did not state that the undersigned was wrong in her assessment, but rather stated in presence of 50 observers, that if the undersigned does not serve Mr. Obama **the way the government wants**, the US attorney will appeal and the **case will be sitting in the 9th Circuit Court of Appeals for a year,** that if the undersigned counsel agrees to serve Mr. Obama the way the government wants, the court promises that the case will be heard on the merits and will not be dismissed on technicality. More argument on the service of process is provided in section B.

I. The court showed bias by not including and not addressing in the final order most of the evidence brought by the Plaintiffs.

Court erred in not addressing any evidence provided by the Plaintiffs, evidence of Social Security fraud and not considering an affidavit of Sandra Ramsey Lines, submitted by the plaintiffs as part of the attachment in Dossier #1 and Dossier #6 as Ms Lines, one of the most renown forensic document expert stated in her affidavit that Mr. Obama's short form Certification of Live Birth cannot be considered genuine without analyzing the original currently sealed in the Health Department in Hawaii. Court also erred in omitting from the final order affidavits of licensed investigators Neil Sankey and Susan Daniels Court erred in refusing to lift the stay of discovery and

granting a motion to dismiss, whereby the court de facto aided and abetted obstruction of Justice by Obama. This evidence was sufficient to allow the Plaintiffs to proceed in RICO with SS fraud being a predicate offense. District court erred in not giving this evidence any consideration and in not allowing the Plaintiffs to proceed in RICO.

J. The court misrepresented the allegations in the pleadings.

On page 2 line 10 of the October 29 order the court stated that the complaint pleadings talked about Mr. Obama's citizenship status and his birth in Kenya.

T**his is a misstatement of law and complete misstatement of the pleadings and Oral argument**. The undersigned has submitted for Judicial notice **The Law of Nations** by Emer De Vattel, specifically arguing that **regardless of where Mr. Obama** was born, he was never qualified for presidency, as he admitted that he had British Citizenship at birth based on the citizenship of his father. Later he acquired Kenyan and Indonesian citizenship, therefore he did not qualify as a Natural Born Citizen, as from birth and until now he had allegiance to other Nations. Natural born citizen is one born in the country to **parents (both of them)** who are Citizens of the country. This definition was widely used by the framers of the Constitution and was quoted by Chief Justice John Jay and the framer of the 14th amendment John A Bingham. The Court erred and abused its judicial discretion in completely misrepresenting the case and the pleadings and not addressing the real issues, that were raised. Additionally, the court stated that the Plaintiffs were seeking to remove Obama from office by the court order. That was not the case. The Plaintiffs were looking for discovery declaratory relief to ascertain whether fraud was committed. Plaintiffs were looking for judicial finding, for determination in regarding to the eligibility. They were not seeking to remove Obama out of office by a court order,

however if there judicial determination were to be achieved, that in itself would and should trigger further actions by Congress. The court showed bad faith and bias in not addressing the fact that the plaintiffs have already tried all other avenues. The Plaintiffs, who are members of the US military went through the chain of command, other plaintiffs have written to their Congressmen and Senators. All their grievances were denied or ignored. On behalf of her clients Taitz reached the office of the Chairman of the Joint Chiefs of Staff Admiral Mulin and on June 29,2009 Taitz received a response from Captain James Crawford, Legal Counsel of the Chairman of the Joint Chiefs of Staff (Appendix #9). Captain Crawford acknowledged the fact that Taitz clients filed section 138 grievances within the military and that on behalf of her clients Taitz filed a Quo Warranto complaint with the office of the Attorney General Eric Holder and a copy of the complaint filed with the Solicitor General Elena Kagan. He stated :"Article 138 of the Uniform Code of the Military Justice is meant to address discretionary acts of omission by a complainant's commanding officer taken under the color of federal military authority, that adversely affect the complainant personally. It is not suited for receiving or resolving complaints of misconduct by third party senior governmental officials." He added "Within the Department of Justice office of the General Counsel has cognizance over civil complaints. As a consequence I have forwarded the information you provided to the office of the General Counsel, Litigation Counsel for review." No answer was received from the office of the General Counsel. No answer was received from either the US attorney for the District of Columbia Jeffrey Taylor or Attorney General Eric Holder. At the 10.05.09 hearing Taitz read a letter from Senator Sessions, which was representative of the other letters received from Senate and Congress., which claimed

that Obama's eligibility is a matter for the courts to decide, that Congress cannot intervene due to separation of powers doctrine. Taitz argued that members of the military, governmental officials, state representatives were placed in an impossible situation, some type of global catch 22, when everyone was passing the buck and not willing to touch this issue. Judge Carter completely ignored this whole argument and provided no answer to the conundrum. This was an error of court. Since the Plaintiffs have gone to all the proper authorities and thought relief, the only avenue left, was a federal court. It was the only proper authority to hear the case on the merits and provide a declaratory relief in regards to Obama's legitimacy to US presidency. Today this issue carries even more weight, as on August 9,2010 a military surgeon, Lt. Col Lakin was arraigned for Court Martial, when he specifically stated that he cannot follow Obama's orders and redeploy to Afghanistan, until he knows that he follows the orders of the legitimate Commander in Chief. Three Major Generals and one Brigadier General spoke up in Lakin's defense. This Nation will end up with military uprising, with military revolt, until and unless this matter is resolved on the merits.

K. T**he court erred in fact by stating that the plaintiffs' counsel waited to bring this action until after Obama's assumption of office** p17 line 25-p18 line 1. As a mater of fact, the same page of the order p17 on line 6 states that Obama was re-sworn on January 21, while Taitz filed the pleading in the morning of January 20. That means, that the result of Judge Carter's argument is supposed to be the opposite. The court stated: "The analysis of redressability and political question is significantly different in the context of a sitting president than it would be for a presidential candidate. Therefore, it is a crucial distinction that Plaintiffs' counsel waited to bring this action after President

Obama's formal assumption of office. See Wilbur v Locke, 423 F. 3d 1101, 1107 (9th cir. 2005) (quoting Kitty Hawk Aircargo,inc v Chao, 418 F.3d 453,460 (5th cir.2005)) ("As with all questions of subject matter jurisdiction except mootness, standing is determined as of the date of the filing of the complaint…"). As the court itself pointed out, and as it was seen by millions of Americans on National TV, Obama completely misspoke his oath of office and Chief Justice of the Supreme Court John Roberts had to come to the White House on January the 21st to give Obama a new oath, so he officially took office on January 21, while Taitz filed current action a day earlier on January 20th. Therefore, there was standing and current action should proceed to trial. Incidently, Taitz has filed another action on behalf of the Vice Presidential candidate Gail Lightfoot, Captain Barnett –registered voter, Captain Neil Turner (retired)-elector,Mrs. Evelyn Bradley-registered voter and a few other parties prior to the electoral college meeting. Not only Taitz handled that case timely and pro-bono, she also traveled at her own expense to Washington DC and filed it with the Supreme Court of the United States on December 12, 2008 at 4.40pm to make sure that it was filed prior to the electoral college meeting. This was Lightfoot v Bowen, filed against CA Secretary of State Debra Bowen, seeking a stay of the certification of the election results, pending verification of the eligibility. Lightfoot v Bowen 08A524. Supreme Court of the United States. Chief Justice Roberts distributed this case for conference of all 9 Justices to be held on 01.23.09. It is quite possible that both Obama and Justice Roberts had this case on their minds, while they recited the oath, which made them both fumble and stumble. We'll never know, what was the reason for the mess up, but the facts of the case are that Taitz filed one day before

Obama officially took office, therefore the filing of the complaint was timely, and there was standing, which should allow us to proceed with trial.

L. Court erred in fact of law and fact on the issue of the political doctrine, justifiability and separation of powers.

The defense would like to turn this issue into the political doctrine, however it is not an issue of politics, it is an issue of fraud committed prior to taking office. The Appellants were not seeking to enjoin any particular decisions of the executive branch, but rather fraud committed by Mr. Obama in order to became the Chief Executive. As the undersigned read to the court a letter written by Senator Sessions of Alabama, the Congress is relying on the courts to resolve the issue of eligibility. The Congress and Senate do not have any power to ascertain whether Mr. Obama is eligible according to the Constitution. They are relying on the Judiciary branch of the Government to make a Judicial Determination, provide declaratory relief and they can take action upon such determination. In undying words of Chief Judge John Marshall, not exercising jurisdiction, when it is available, is treason to the Constitution. Therefore, there is not only a potential for justiciability, but obligation to take action based on justiciability. In which way can jurisdiction and justiciability be asserted? Clearly these are uncharted water, however if this Nation would've been afraid to enter uncharted water, it would've never sent a man on the Moon. If we could send a man on the Moon, we can figure out the issues of the separation of powers, justiciability and jurisdiction. In the humble opinion of the undersigned proper cause of action provided several avenues: (a) declaratory relief on Mr. Obama's Natural born status; (b) forwarding the findings to Congress for their decision on

impeachment; (c) forwarding the finding to a special prosecutor; (d) forwarding the findings of fraud, social security fraud, identity theft-if found, to the Department of Justice and Social Security administration for further handling and ultimate enforcement (e). all of the above.

M. Discrepancy between different federal courts in view of Flast v Cohen in relation to Obama legitimacy

In it's decision Central District of CA did not find taxpayer standing based on Flast v Cohen, 392 US 83 (1968) yet believed that there is standing in Quo Warranto, but it has to be brought in the District of Columbia. Taitz has filed a new legal action Taitz v Obama, 10-CV-151 in the District of Columbia. Taitz is not licensed in DC and considering the fact that most attorneys are paralyzed with fear to go against the Federal Government, particularly DC attorneys, who routinely work with the government, she could not secure a local counsel, particularly one willing to risk so much and do it pro bono. She could not file a legal action on behalf of other plaintiffs, therefore she filed the new action pro se. Mindful of Judge Carter's decision, she did not bring forward the tax payer action per Flast v Cohen, but brought Quo Warranto. Chief Judge Lamberth ruled that Quo Warranto needs to be brought by the government, not individuals, did not accept the ex-relator argument, but noted that taxpayer standing might be proper under Flast v Cohen. Plaintiffs believe that indeed as taxpayers they have standing to question legitimacy of Obama , as a chief executive officer of the government, having ultimate authority over tax contributions of the tax payers. This is particularly significant, since some 10 plaintiffs are State Representatives from different states, stating that they cannot do proper budgeting and appropriations without knowing, whether we have a legitimate

President. This Honorable court is requested to resolve this controversy between two district courts and render an opinion in regards to the standing of the taxpayers. This is particularly significant today as Obama administration incurs an astronomical debt of 1.5 trillion per year. This is Flast v Cohen on steroids, where our children and grandchildren and their grandchildren will be paying off this enormous debt and interest on it. This debt might bankrupt the whole US economy. It is reasonable for the taxpayers to ask, whether the person , who incurred such hyper-debt, is legitimate in his position.

N. Evidence of intimidation of the presiding judge David O. Carter and intimidation of witnesses, Plaintiffs and Court Observers.

Appellants submit Affidavits from witnesses Pat Levy, Commander David LaRocque (Ret) and Capt. Neil Turner (Ret). (Appendix) These witnesses concur in their observation, that there was a great change in behavior and demeanor of Judge David O. Carter. At the first two hearings on July 13, 2009 and September 8, 2009 Judge Carter sounded like a brave former Marine. At the second hearing there were about a 100 spectators. When Taitz entered the court building, the spectators burst in applause. They were elated and thankful that finally there is a combination of a Judge with some guts, a Counsel with some guts and Plaintiffs with standing. Carter promised the Plaintiffs and their counsel, that the case will be heard on the merits, that it will not be dismissed on technicality of standing. At the last hearing Carter looks a completely different person. From a brave Marine he turned into a scared old man. He clearly looked intimidated and he found for the defendant, President of the United States. He also put his name and signature under the order prepared by his clerk Sidharth Velamoor, attorney from the Perkins Coie firm, which defended Obama in these types of litigations before. In this

order Carter viciously demeaned the plaintiffs and their counsel, he did it without giving her an opportunity to respond to those absolutely false, slanderous allegations, which came from two convicted forgers. It appears Obama administration used two federal judges for a hit job on the plaintiffs and their attorney, to intimidate others. Counsel asks this Honorable Court to forward this matter to a special counsel for investigation of intimidation of Judge Carter. At the same time the Federal court started recording all of the personal information of the plaintiffs, witnesses and court observers. As stated in affidavits, it was seen as a form of intimidation of the plaintiffs, witnesses and court observers.

AOL and Pew polls show that 80-85% of American citizens know there is an issue with eligibility of Obama and want to see his records. Recent CNN poll showed that less than half, only 42% of American citizens are certain that Obama is legitimate. This issue needs resolution. It needs to be resolved by the courts that are not intimidated by the establishment.

Shortly after Judge Carter completely changed his tune, Taitz came to the court house, brought some pleadings and heard the Marine march playing. Judge Carter, a former Marine was celebrating the Marine Corps day. There was a huge teddy bear sitting in the midst of the hallway, it had a shirt with the Marine insignia, the band was playing, clerk Sidharth Velamoor was there, all the other clerks and employees were there. Everyone was waiting for Judge Carter and the cake. Taitz started choking and trying to gather some strength to hold back tears. The only ones, who were missing, were Marines. The same Marines, whom Carter named cowards for standing up for the Constitution of this

country, Marines, who sacrificed their carriers, earnings, who risked retaliation were called cowards.

Taitz turned around and left, and the Marine March kept playing on and on, on and on…

Wherefore the appellant respectfully requests:
granting above appeal as requested and find for the Appellants
1. court erred in not granting Plaintiffs 05.27.09 motion for default judgment by the Plaintiffs
2. court erred in not granting 06.14.09. motion for reconsideration of 05.27.10 motion or for certification for appeal
3. court abused its judicial discretion and improperly applied pressure on Plaintiffs' counsel Taitz in demanding that she serve the defendant Obama yet again, after he was already served four times by different means, that she serve the US attorneys office for the purpose of them representing Obama, and that due to duress and intimidation applied, her consent to serve them was not valid. Absent such consent to serve the defendant again, and due to the fact that the defendant did not provide an answer to the complaint, default judgment should be entered and post default discovery needs to be ordered.
4.court erred in it's 10.29.2010 ruling granting defendant's motion to dismiss.
5. Court erred in including defamatory, slanderous inflammatory statements about the Plaintiff's counsel that came from some ex-parte communications of non-parties without giving the counsel an opportunity to respond and refusing any minimal inquiry into authenticity or veracity of these statements.
6.Appelants request sua sponte assignment to the independent Prosecutor and public integrity unit evidence of Obama's illegitimacy to US presidency,
5. sua sponte referral to the special prosecutor the matter of intimidation of Federal Judge David O. Carter by yet unknown individual(individuals)
6. cost and reasonable fees of appeal.

/s/ Dr. Orly Taitz, ESq

Certificate of Compliance

The Appellant certifies that Appellant's opening brief without caption, table of content and appendix does not exceed the allowed 30 pages or allowed word or line count.

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