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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
HONORABLE DAVID O. CARTER, JUDGE PRESIDING

- - - - -

ALAN KEYES, PH.D., ET AL.,)	
)	
Plaintiffs,)	
)	
vs.)	No. SACV 09-0082 DOC
)	Item No. 6
BARACK H. OBAMA, et al.,)	
)	
Defendants.)	
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REPORTER'S TRANSCRIPT OF PROCEEDINGS

Hearing on Motions

Santa Ana, California

Monday, July 13, 2009

Debbie Gale, CSR 9472, RPR
Federal Official Court Reporter
United States District Court
411 West 4th Street, Room 1-053
Santa Ana, California 92701
(714) 558-8141

09cv0082 Obama 2009-07-13 Item 6

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ALSO PRESENT:

Charles Lincoln, Law Clerk for Ms. Taitz

I N D E X

PROCEEDINGS

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Motion by Plaintiffs for Reconsideration of
Order to Show Cause or, in the alternative, to
Certify Question for Appeal

4

SANTA ANA, CALIFORNIA, MONDAY, JULY 13, 2009

Item No. 6

(9:50 a.m.)

09:49 THE COURT: Alan Keyes v. Barack Obama.

09:50 Who represents Alan Keyes?

09:50 MS. TAITZ: I am. I am, Your Honor.

09:50 THE COURT: Who are you?

09:50 MS. TAITZ: My name is Orly Taitz.

09:50 THE COURT: Have a seat and pull the microphone
09:50 closer so I can hear you.

09:50 MS. TAITZ: Yes.

09:50 THE COURT: You have a soft voice.

09:50 MS. TAITZ: Can you hear me now?

09:50 THE COURT: Yeah, I can hear you now.

09:50 MS. TAITZ: Can you hear me, Houston?

09:50 THE COURT: Just like that ad, "Can you hear me
09:50 now?"

09:50 MS. TAITZ: I'm Orly Taitz. I'm a pro bono
09:50 attorney, as well, and I'm representing Ambassador Keyes.

09:50 THE COURT: Pleasure to meet you.

09:50 Who's with you today?

09:50 MR. LINCOLN: Law clerk. Charles Lincoln.

09:50 THE COURT: Nice meeting you. It's a pleasure.

09:50 And on behalf of Barack Obama?

09:50 MR. DeJUTE: Not on behalf of Barack Obama yet,

DEBBIE GALE, U.S. COURT REPORTER

09:50 1 Your Honor.

09:50 2 On behalf of the United States, David A. DeJute,
09:50 3 Assistant U.S. Attorney.

09:50 4 THE COURT: Okay. And where are you located?

09:50 5 MR. DeJUTE: In Los Angeles at the U.S. Attorney's
09:50 6 Office.

09:50 7 THE COURT: Okay. And once again your name,
09:50 8 slowly.

09:50 9 MR. DeJUTE: My first name is David. My last
09:50 10 name, "DeJute," D-E, capital J-U-T-E.

09:51 11 THE COURT: Thank you very much. Why don't you
09:51 12 have a seat also. Move the microphone closer.

09:51 13 This is a motion for reconsideration. And it
09:51 14 really doesn't matter which party I hear from first.

09:51 15 MS. TAITZ: First of all, I would like to object
09:51 16 to the U.S. Attorney's Office representing Mr. Obama.
09:51 17 Mr. Obama was served as an individual. He was served on the
09:51 18 inauguration date for something that was done before the
09:51 19 election, specifically, obfuscating all of his vital
09:51 20 records.

09:51 21 Mr. Obama has presented a computerized image of a
09:52 22 short-form birth certificate. And, in spite of numerous
09:52 23 legal actions -- and to the best of my knowledge, there were
09:52 24 over a hundred such actions -- Mr. Obama has never
09:52 25 provided -- never consented to release of original records

09:52 1 or certified copies of the original records.

09:52 2 I have gathered statements from experts, one of
09:52 3 them Sandra Ramsey Lines.

09:52 4 THE COURT: I'm sorry. Senator?

09:52 5 MS. TAITZ: Sandra Ramsey Lines. She's one of the
09:52 6 top forensic document experts showing that there are
09:52 7 numerous signs of forgery on the Certification of Live Birth
09:52 8 that was presented on the internet.

09:52 9 THE COURT: Okay.

09:52 10 MS. TAITZ: The serial number is obliterated. For
09:52 11 that reason alone, this piece of paper is worthless. It's a
09:53 12 computer image of a worthless piece of paper because if
09:53 13 there is no serial number it means absolutely nothing.
09:53 14 Aside from that, there are a number of statements from
09:53 15 experts showing that there is forgery in that document.

09:53 16 I have additionally provided information in
09:53 17 terms -- from federal agent Mr. Steven Kaufman (*phonetic*)
09:53 18 from Texas, showing that there are numerous signs of forgery
09:53 19 in Certification of Live Birth -- I'm sorry -- in Selective
09:53 20 Service Certificate of Mr. Obama.

09:53 21 I personally have filed several legal actions.
09:53 22 One of them was *Lightfoot v. Bowen*. One of the plaintiffs
09:53 23 is right here. And every time when a subpoena for
09:53 24 production of records was issued, Mr. Obama -- Mr. Obama's
09:54 25 attorneys have filed a motion to quash any such subpoenas.

09:54 1 And Your Honor's -- from what I understand, you
09:54 2 were the judge that decided that there is a prevailing right
09:54 3 of public to know -- I believe it was in Bob Citron's case.
09:54 4 If the public has a right to know --

09:54 5 THE COURT: I got reversed by the California
09:54 6 Supreme Court, by the way.

09:54 7 MS. TAITZ: Well, they were wrong.

09:54 8 THE COURT: It involved transcripts concerning the
09:54 9 bankruptcy, and --

09:54 10 MS. TAITZ: Exactly.

09:54 11 THE COURT: -- as an aside, since you raised that,
09:54 12 it was a very interesting case. Because I'm well aware that
09:54 13 Grand Jury transcripts are normally kept secret. I thought,
09:54 14 though, that the -- there have to, on occasion, be great
09:54 15 exceptions. And the public has to have transparency. And
09:54 16 what was of great concern to this Court was that the whole
09:55 17 process involving the auditor/controller and these reverse
09:55 18 derivatives in the Grand Jury process had lead to a
09:55 19 resolution, a plea bargain of this case right before alleged
09:55 20 indictments were to be handed down involving Merrill Lynch.

09:55 21 MS. TAITZ: And I can tell you, if the issue of
09:55 22 derivatives would have been transparent then, since '94,
09:55 23 maybe we wouldn't be going into bankruptcy today.

09:55 24 THE COURT: It's amazing how that thought occurred
09:55 25 to me the other day; that we're right back in a circle, with

09:55 1 a tremendous amount of the County's investments, over
09:55 2 18 percent in, if not reverse derivatives, something that is
09:55 3 not understandable.

09:55 4 Now, I have no comment on that. It's not in front
09:55 5 of me. But that's why transparency is so important.

09:55 6 MS. TAITZ: Exactly. And specifically on the
09:56 7 issue of Mr. Obama's legitimacy for presidency. Moreover, I
09:56 8 have worked with Mr. Neal Sankey, S-A-N-K-E-Y. He is a
09:56 9 licensed investigator with 20 years of experience with
09:56 10 Scotland Yard and over 15 years of experience in this
09:56 11 country. And the fact that is the most troubling in this
09:56 12 case is that, according to national databases -- the most
09:56 13 well-accepted database is LexisNexis and ChoicePoint --
09:56 14 there are 140 different addresses all over the country for
09:56 15 "Barack Hussein Obama" and those addresses are connected to
09:56 16 39 different social security numbers.

09:56 17 And what is even more troubling, that the social
09:56 18 security number that is used most commonly is one that
09:57 19 starts with 046. Mr. Obama has used it in Somerville,
09:57 20 Massachusetts, when he went to Harvard. He used it in
09:57 21 Chicago, and he used it in Washington DC. This social
09:57 22 security number was issued in the state of Connecticut, even
09:57 23 though Mr. Obama has never lived in the state of
09:57 24 Connecticut. And even more troubling, it shows that the
09:57 25 owner of the social security is 119 years old, which means

09:57 1 either he's very well preserved, or we have a serious
09:57 2 problem here that this might be a social security number of
09:57 3 a deceased person.

09:57 4 Aside from that, Mr. Obama's grandmother, Madelyn
09:57 5 Payne Dunham was a volunteer in Oahu Circuit Court Probate
09:57 6 Department.

09:57 7 THE COURT: In Oahu?

09:57 8 MS. TAITZ: Circuit Court, Probate Department.
09:57 9 And that's where one can obtain social security numbers of
09:58 10 the deceased individuals.

09:58 11 So this is an extremely important issue for the
09:58 12 national security of this country as a whole.

09:58 13 Aside from that, the state of Hawaii has never
09:58 14 produced a copy of Mr. Obama's birth certificate due to the
09:58 15 fact that Mr. Obama refused to sign a consent for such a
09:58 16 copy. All they stated: That there is a document on file.

09:58 17 And the problem with that, that is -- the State of
09:58 18 Hawaii is unique. Like no other state in the nation, they
09:58 19 have a Statute No. 338 that allows foreign-born children of
09:58 20 Hawaiian residents to obtain Hawaiian birth certificates.
09:58 21 Moreover, 338-5 allows one to obtain a birth certificate
09:58 22 based on a statement of one relative only, without any
09:59 23 corroborative evidence from any hospital. And as a matter
09:59 24 of fact, what Mr. Obama has posted on the internet, it's a
09:59 25 document that he obtained only last year during the campaign

09:59 1 that shows no signatures, zero signatures, no name of the
09:59 2 hospital, no name of the doctor, zero corroborating evidence
09:59 3 that he was really born in this country.

09:59 4 And since State of Hawaii allows foreign-born
09:59 5 children to get such birth certificates --

09:59 6 THE COURT: Out of curiosity, I haven't delved
09:59 7 into the merits. We're still in the procedural phase. And
09:59 8 this is a curiosity. It has nothing to do with this motion,
09:59 9 in a sense.

09:59 10 Senator McCain, his opponent, was also born
09:59 11 outside of the United States.

09:59 12 MS. TAITZ: There is a difference because he was
09:59 13 born in the zone of Panama Canal, which was a U.S. territory
10:00 14 at the time.

10:00 15 THE COURT: Whereas, Kenya would not be, or
10:00 16 Indonesia or whatever?

10:00 17 MS. TAITZ: Not as far as I know -- unless it's
10:00 18 going to be a 58th state.

10:00 19 THE COURT: So it's not the personage; it's not
10:00 20 the parents, because there's no contesting that Obama's
10:00 21 mother is a United States citizen? It's the location
10:00 22 outside --

10:00 23 MS. TAITZ: Well --

10:00 24 THE COURT: -- the confines of the United States
10:00 25 or the territories of the United States, the question of

10:00 1 whether he was born in Kenya?

10:00 2 MS. TAITZ: Well, there are two questions
10:00 3 Your Honor. You're right in that the mother indeed was a
10:00 4 U.S. citizen. Nobody questions that. You're right in that
10:00 5 the question -- there is a serious question as to
10:00 6 Mr. Obama's place of birth. As a matter of fact, the
10:00 7 Ambassador of Kenya confirmed that he was born in Kenya in
10:00 8 an interview that was recorded.

10:00 9 But there is yet another issue, and that's meaning
10:00 10 of what is natural-born citizen. If you recall, just last
10:01 11 year, when Senator Leahy has announced a nonbinding
10:01 12 Resolution 511 that was signed by all 100 senators, it was
10:01 13 stated that Mr. Obama -- I'm sorry -- Mr. McCain is a
10:01 14 natural-born citizen. And they used two-prong test.
10:01 15 Because (A) he was born in the zone of Panama Canal, the
10:01 16 U.S. Territory; but (B) both -- both of his parents were
10:01 17 U.S. citizens. They didn't state at least one. And I have
10:01 18 actually traced the meaning -- what is the meaning, because,
10:01 19 as -- as you know, Constitution does not provide exact
10:01 20 meaning of natural-born citizen.

10:01 21 And I have a website. I have a lot of followers.
10:01 22 Get something like eight and a half million hits every
10:01 23 month. So I ask the followers to send "Black" Dictionaries
10:01 24 going to first edition. And then I also got Vattel's "Law
10:02 25 of Nation," because I was trying to ascertain what was the

1 meaning of the natural-born citizen at the time the
2 Constitution was written.

3 What I found out, that Black Law Dictionary, as
4 many people are quoting today, didn't exist for some hundred
5 years until after Constitution was written. What existed,
6 and what was widely used by the populous, was "The Law of
7 Nation." It's a legal treatise written by a well-known
8 advocate, well-known attorney and diplomat Emmerich de
9 Vattel, which states that natural-born citizen is one when
10 is born in the country to parents, both of them citizens of
11 this country.

12 THE COURT: And yet at the time of our first
13 President, or at least in George Washington, a significant
14 number of persons who could have become president or serve
15 in this country did not have parents born here.

16 MS. TAITZ: Well, you are right about that.
17 However, the Constitution provides a grandfather clause. As
18 you recall, it states a natural-born citizen is one -- I'm
19 sorry -- that the President has to be either natural-born
20 citizen, or citizen at the time of adoption of the
21 Constitution. So they fit the clause. And I guess, unless
22 Mr. Obama is over 200 years old, he's got a problem. He's
23 close. He's 119, but not over 200.

24 THE COURT: Well, most of the Presidents look like
25 they've aged that much in office. Now, let me hear from

1 your opposition for that moment. I'm going to give you
2 another opportunity.

3 Counsel?

4 MR. DeJUTE: Thank you, Your Honor.

5 THE COURT: Pleasure. Why don't you -- well, you
6 can be seated also, if I can hear you from that microphone,
7 or you can use the --

8 MR. DeJUTE: I don't think well seated, your
9 honor.

10 THE COURT: All right.

11 MR. DeJUTE: With respect to -- just briefly --
12 opposing counsel's statements, you know, she said a lot of
13 facts. I'm aware of her website. I'm aware of the
14 opposition's website.

15 THE COURT: Maybe I should get on it?

16 MR. DeJUTE: Perhaps, Your Honor. Although --

17 THE COURT: I'm just kidding you, Counsel.

18 MR. DeJUTE: -- I think that it's fair to say
19 that -- from my understanding, there is no factual validity
20 in what she's been saying. I've done a lot of reading back
21 and forth.

22 THE COURT: Isn't that why we're here? Right now,
23 we're here on a procedural process, in a sense.

24 MR. DeJUTE: Well, I think I agree with you. The
25 reason we're here is not to talk about the substance of the

10:04 1 case.

10:04 2 THE COURT: Correct.

10:04 3 MR. DeJUTE: We're here to talk about whether
10:04 4 Barack Obama, in his individual capacity, was served.

10:04 5 You know, Dr. Taitz suggests that --

10:04 6 THE COURT: Now, just a moment. I want to cut
10:04 7 through a lot of this. We could spend months on whether he
10:04 8 was properly served or not. We could spend months. But
10:04 9 this service took place in Illinois?

10:04 10 MS. TAITZ: No. Washington DC, Your Honor.

10:04 11 THE COURT: Washington DC?

10:04 12 MR. DeJUTE: Well, if I could just interpose one
10:05 13 comment?

10:05 14 THE COURT: Yeah.

10:05 15 MR. DeJUTE: Dr. Taitz misspoke when she said he
10:05 16 was served on inauguration day. The declaration that she
10:05 17 submitted, with respect to her motion, states that service
10:05 18 was attempted on February 10th, you know, well after he was
10:05 19 inaugurated and at the White House.

10:05 20 THE COURT: A curiosity: Between the two of you,
10:05 21 why wasn't service perfected before the inauguration?

10:05 22 In other words -- hold on for just a second.
10:05 23 We've got all day. We've got all night. Okay? And it may
10:05 24 have nothing to do with anything. But if I didn't want a
10:05 25 President to come into office, and I thought that that

1 person did not have the legal right to be President of the
2 United States, why wouldn't I file prior to inauguration to
3 stop the harm?

4 MS. TAITZ: And I sure did, Your Honor. I filed
5 numerous legal actions prior to inauguration. One was filed
6 in November. It was --

7 THE COURT: Just a moment. Where?

8 MS. TAITZ: In the State of California, in the
9 Supreme Court of the State of California.

10 THE COURT: Just a moment. Why?

11 MS. TAITZ: That was -- *Lightfoot v. Bowen* was
12 filed to stop certification of the electoral votes. It
13 was -- "Bowen," as you know, Secretary of State --

14 THE COURT: Just a moment. Why didn't you go to
15 Washington DC and file it?

16 See, what I'm worried about is that there are a
17 lot of places in the country that can accept service on
18 behalf of the United States. But there's nothing like
19 Washington DC to get this case above the radar; in other
20 words, so people are aware of it.

21 MS. TAITZ: Oh, I went to Washington DC. As a
22 matter of fact, I reached the Supreme Court of the
23 United States, and Chief Justice John Roberts agreed to hear
24 my case in conference. He distributed *Lightfoot v. Bowen*
25 for conference of all nine justices.

10:07 1 THE COURT: What date?

10:07 2 MS. TAITZ: Uh, well, I filed in November, but he
10:07 3 scheduled it for January the 23rd.

10:07 4 THE COURT: Oh, I see.

10:07 5 MS. TAITZ: And the issue there was that the case
10:07 6 was right there on the docket before the inauguration; and
10:07 7 then the next day after inauguration, the case disappeared.
10:07 8 Somebody erased it. And I have confronted Justice Scalia
10:07 9 when he was --

10:07 10 THE COURT: Thank you very much. We'll come back
10:07 11 to you. Then, Counsel, please proceed.

10:07 12 MR. DeJUTE: Thank you.

10:07 13 With respect to that last point, Your Honor: Why
10:07 14 is this case here and not in Washington DC? Dr. Taitz has
10:07 15 suggested that she's filed other cases. One involved the
10:07 16 Pennsylvania Democratic primary, dismissed on standing,
10:07 17 because the individual plaintiff was not harmed. Another
10:07 18 one in -- somewhere in the East Coast with a retired
10:07 19 Lieutenant Colonel, because he was concerned that he
10:07 20 wouldn't properly be able to serve his Commander-in-Chief,
10:07 21 again, dismissed on standing. Looked at the website, and
10:07 22 the suggestion was made, "Let's find a candidate."
10:08 23 Ambassador Keyes was a candidate in the California primary
10:08 24 election. And so the suggestion would be, "we can get past
10:08 25 the standing issue if we can find a viable candidate who ran

10:08 1 against Barack Obama with the allegation that
10:08 2 President Obama is not eligible under Article II."

10:08 3 THE COURT: I see.

10:08 4 MR. DeJUTE: We could talk all day about the
10:08 5 facts, Your Honor. And it's easy to make, you know,
10:08 6 negative aspersions. It's hard to disprove them when we're
10:08 7 here on, you know, an Order to Show Cause why the case
10:08 8 shouldn't be dismissed without effecting proper service.

10:08 9 It's clear Your Honor doesn't like to stand on
10:08 10 technicalities. And we're prepared for a substantive
10:08 11 discussion. But I think we're entitled to be served
10:08 12 properly first.

10:08 13 I think Your Honor's previous orders suggested the
10:08 14 method by which the United States or Barack Obama proceed
10:09 15 properly under Rule 4(i). I don't think there can be any
10:09 16 serious question that the lawsuit is suing an officer of the
10:09 17 United States in his official capacity. The lawsuit seeks
10:09 18 to declare Barack Obama ineligible to be President, and
10:09 19 thereby prevent him from continuing in office. He's not an
10:09 20 officer of the United States. He's "the" officer of the
10:09 21 United States. And I think he's entitled to service in that
10:09 22 capacity. And I can assure you the United States Attorney's
10:09 23 Office for the Central District has never been served with
10:09 24 this matter. On that ground alone, effective service has
10:09 25 not been made.

10:09 1 THE COURT: The United States Attorney's Office,
10:09 2 though, could be served in Los Angeles. It could be served
10:09 3 here in Orange County, couldn't they?

10:09 4 MR. DeJUTE: I'm not sure if it could be served in
10:09 5 Orange County. I believe so. I know it -- for certain, it
10:09 6 could be served in Los Angeles.

10:09 7 THE COURT: What I'm driving at is this. I'll
10:09 8 come back to what I just said to prior counsel.

10:10 9 The law abhors closed courtroom doors. And the
10:10 10 process and technicality of how counsel get here can be
10:10 11 exacerbating. And I intend on that prior case to cut
10:10 12 through that nonsense. And I intend on this case to cut
10:10 13 through that nonsense.

10:10 14 MR. DeJUTE: I'm not surprised, Your Honor.

10:10 15 THE COURT: There's no reason that this case can't
10:10 16 be here, or Washington DC, or wherever. I don't care where
10:10 17 it is. By the same token, it sounds to me like there hasn't
10:10 18 been a forum for this for some significant period of time.

10:10 19 And somehow there has to be a forum someplace.
10:10 20 Now, how are we going to accomplish that?

10:10 21 MS. TAITZ: Your Honor --

10:10 22 THE COURT: No. Believe it or not, I wasn't
10:10 23 speaking to you. I'll come back to you in just a moment.
10:10 24 And when I want to hear from you, I'll look at you and
10:10 25 smile. I'm not smiling right now.

10:10 1 MR. DeJUTE: He's not smiling at me either.

10:10 2 I think I can answer the question, Your Honor.

10:10 3 THE COURT: No, no. I've done this on so many

10:11 4 cases: Why can't she simply serve you today in court?

10:11 5 MR. DeJUTE: Because I'm not authorized to accept

10:11 6 service.

10:11 7 THE COURT: Well, go get somebody who is.

10:11 8 MR. DeJUTE: Well, the people that are authorized

10:11 9 to accept service --

10:11 10 THE COURT: Do you see what I'm hearing? I'm

10:11 11 hearing a big run-around, a big circle.

10:11 12 MR. DeJUTE: Uh --

10:11 13 THE COURT: No. Hold on for a second.

10:11 14 You can go get somebody in here.

10:11 15 And you can serve him.

10:11 16 And then we can cut through whether it's

10:11 17 Pennsylvania, Washington DC -- this is taking too much time.

10:11 18 And this is taxpayer money. This isn't your money; this is

10:11 19 taxpayer money we're spending right now. And this is a

10:11 20 process and procedure that's going to come to an end.

10:11 21 Who's authorized to accept service?

10:11 22 MR. DeJUTE: The civil clerk.

10:11 23 THE COURT: Just a moment.

10:11 24 *(Court and court clerk confer.)*

10:11 25 THE COURT: They're authorized downstairs to

1 accept service. Go serve 'em.

2 MS. TAITZ: Are you --

3 THE COURT: Because, if you don't, what's going to
4 happen is we're going to end up getting involved in this
5 continuing process of whether this was valid service or not.
6 And you're gonna end up litigating process and procedure for
7 the term of this administration.

8 So if you want to get to the merits between the
9 two of you, just get proper service. And serve
10 downstairs -- and they're authorized to take it -- and do it
11 now.

12 Now, if you don't -- if you want to spend your
13 time going through this process, then you can come back and
14 visit me every week if you would like to, and we'll have lot
15 of hearings.

16 Now, you continue on.

17 MR. DeJUTE: Well, I think it's time for me to
18 say: I concur with Your Honor.

19 THE COURT: Yeah. Now, let me hear from your
20 opposition 'cause I'm smiling at her.

21 I'm just kidding you, Counsel. Now, Counsel, your
22 turn.

23 MS. TAITZ: Well, since you are smiling at me now,
24 I would continue on the issue of taxpayer's money. The
25 whole point is Mr. Obama does not get to use our taxpayer's

10:12 1 money to cover up --

10:12 2 THE COURT: No, no, Counsel. I'm not going to let
10:13 3 you go there. This is a waste of time. You could properly
10:13 4 serve -- and I'm trying to help you cut through the
10:13 5 bureaucratic nonsense. You can have authorized service that
10:13 6 can take place in this building today.

10:13 7 If you want to continue procedurally, I won't cut
10:13 8 you off again. But I can guarantee you that process is
10:13 9 gonna be almost never ending, because you've already failed.
10:13 10 You failed in Pennsylvania.

10:13 11 MS. TAITZ: I never filed in Pennsylvania.

10:13 12 THE COURT: You failed in --

10:13 13 *(To the Court Reporter:)* When I'm speaking,
10:13 14 you'll take me.

10:13 15 You've failed in Washington. And I'm offering you
10:13 16 a vehicle and avenue to have this resolved on the merits.
10:13 17 Now, you're so used to doing battle, you're about to do
10:13 18 battle with me. I'd suggest you don't, and I suggest you
10:13 19 rethink it. So I'm going to take a recess. You're going to
10:13 20 go calm down and go think about this. If you still want to
10:13 21 proceed in this fashion, so be it.

10:13 22 MS. TAITZ: May I respond?

10:13 23 THE COURT: No, not now. I'm going to take a
10:13 24 recess, so you have a chance. I've got all day. In other
10:13 25 words, I'm not pushing you out of court.

10:13 1 MS. TAITZ: Well, can I talk to the U.S. Attorney?

10:13 2 THE COURT: We're in recess. We'll be back in
10:13 3 10 minutes.

10:13 4 *(Recess held at 10:13 a.m.)*

10:25 5 *(Proceedings resumed at 10:25 a.m.)*

10:25 6 THE COURT: We're back on the record. Let me
10:25 7 suggest to both of you a process that might get to the
10:25 8 merits of this.

10:25 9 I'm smiling at you.

10:25 10 On January 20th, 2009, at 3:26 p.m. you brought
10:25 11 suit against Defendant Obama, Condoleezza Rice in her
10:25 12 capacity as the former Secretary of State, Robert Mueller in
10:25 13 his capacity as the Director of the Federal Bureau of
10:26 14 Investigation, and Michael Hager as the former Director of
10:26 15 the Office of Personnel Management.

10:26 16 You've alleged that Obama does not meet the
10:26 17 qualifications required for the Office of the President, as
10:26 18 specified by Article II, Section 1, Clause [5], of the
10:26 19 United States Constitution. More specifically, you've
10:26 20 alleged that the defendant has not shown that he is a
10:26 21 natural-born citizen of the United States.

10:26 22 And the way we're proceeding, we're never going to
10:26 23 get to that issue, or at least it's going to take an
10:26 24 abhorrent amount of time. And if you're really interested
10:26 25 in this issue, I'm actually showing you a kindness, a way to

1 get this before a Court quickly, rather than the way that
2 this is proceeding.

3 MS. TAITZ: May I respond?

4 THE COURT: No, not yet. You've got all night,
5 believe it or not. You can have until 8:00 o'clock tonight,
6 for all I care, so there's no rush. Okay?

7 You've argued that there's evidence to show that
8 the President was actually born in Kenya and not Hawaii,
9 thus making him ineligible to be President of the
10 United States.

11 You've also argued that the President was a
12 citizen of Indonesia and he's not gone through the proper
13 immigration procedures to regain his United States
14 citizenship. In order words, you pointed the Court to two
15 different countries potentially that he was either born or a
16 citizen of.

17 In the lawsuit, you appear to be -- the issue
18 appears to be the issuance of an -- well, your primary
19 objective appears to be the issuance of an injunction
20 requiring the President to present any and all documentation
21 that he is a natural-born citizen of the United States --
22 and you've ably argued today that that's never been
23 forthcoming to you, frustratingly so -- and, if he's unable
24 to prove citizenship, to have him removed from office.

25 So if there's an import to this, if there's a

1 danger, then it would appear to me that you want to
2 accomplish that as quickly as possible, not what's happening
3 now in this procedural time-consuming circle that everybody
4 seems to be going in.

5 Now, you specifically plead for relief in the form
6 of declaratory relief, where the Court will determine
7 whether or not the President is a natural-born citizen of
8 the United States within the definition of the
9 U.S. Constitution; second, a stay of the January 20th, 2009,
10 Inauguration of the President due to plaintiffs' substantial
11 likelihood of success on the merit -- which has already
12 passed now, and getting older; a written mandamus requiring
13 Defendants Rice, Hager, and Mueller to produce or compel
14 documents proving the President's current citizenship; and
15 attorneys fees and costs of the suit.

16 In the motion before the Court, you've stated that
17 you're dismissing Counts 2 and 3 of the Complaint, and
18 dismissing all the defendants, except the President. And
19 I'll ask you about that in a moment, courteously, to make
20 sure that's still your position.

21 MS. TAITZ: Yes.

22 THE COURT: On May 12th, this Court issued an
23 Order to Show Cause for lack of prosecution, as the Court
24 had not received proof of service on various defendants in
25 this suit. On May 18th, plaintiffs' filed proof of service

1 on the President, through Maryann McKernian (*phonetic*), as I
2 understand it, who's a mail clerk in Streamwood, Illinois --

3 MS. TAITZ: No.

4 THE COURT: -- who's allegedly authorized to
5 accept service on behalf of the Department of Justice.

6 MS. TAITZ: No, no. Uh, she is not a mail clerk.
7 She went to the White House --

8 THE COURT: Oh, I'm going to get there. Believe
9 it or not, I read this stuff. Okay. So hang with me for a
10 moment.

11 After service, it's my understanding that she
12 literally went to the White House. Now, this gets even more
13 bizarre: That she gets on a plane and she flies to the
14 White House, and she gives this to a Secret Service agent.

15 MS. TAITZ: Yes.

16 THE COURT: That's a baffling process, in and of
17 itself: To have somebody get on a plane and give it to a
18 Secret Service agent.

19 Now, on June 1st, 2009, the Court notified
20 plaintiffs that their purported proof of service was
21 deficient under 4(i)(3), hereinafter "Rule 4(i)(3)."

22 And it states, Subsection (3):

23 "Officer or Employee Sued Individually.

24 "To serve a United States officer or employee sued
25 in an individual capacity for an act or omission occurring

1 in connection with duties performed on the United States'
2 behalf, whether or not the officer or employee is also sued
3 in an official capacity, a party must serve the
4 United States and also serve the officer or employee under
5 Rule 4(e), (f), or (g)."

6 In this motion you've argued that "the above
7 portion of Federal Rule of Civil Procedure is inapplicable
8 as Federal Rule of Civil Procedure 4(e), hereinafter 4(e),
9 should be applied instead."

10 This provision states in subsection (e):

11 "Serving an Individual Within a Judicial District
12 of the United States.

13 "Unless federal law provides otherwise, an
14 individual, other than a minor and incompetent person or
15 person who's waiver has been filed, may be served in a
16 judicial district of the United States by:

17 "First, following state law for serving a summons
18 in an action brought in courts of general jurisdiction in
19 the state where the district court is located or where the
20 service is made; or,

21 "Two, doing any of the following:

22 "(a) Delivering a copy of the summons and of the
23 complaint to the individual personally.

24 "(b) Leaving a copy of each at the individual's
25 dwelling or usual place of abode with someone of suitable

10:31 1 age and discretion who resides there; or,

10:31 2 "(c) Delivering a copy of each to an agent
10:31 3 authorized by appointment or by law to receive service of
10:32 4 process."

10:32 5 You've argued that the Court's June 12th, 2009,
10:32 6 order finding that service under Rule 4(e) was insufficient
10:32 7 and requiring service under 4(i) is "manifestly erroneous."
10:32 8 In the alternative, you move and request that this Court
10:32 9 exercise its discretion to certify the following question
10:32 10 for interlocutory appeal.

10:32 11 Now, let me just stop for a moment.

10:32 12 Assuming I was willing to do that, assuming I
10:32 13 ruled against you for a moment, do you know how long that
10:32 14 process is going to take? A significant period of time for
10:32 15 the Ninth Circuit to serve. And what I'm hearing is that
10:32 16 you want access to a Court immediately to re- -- now, hold
10:32 17 on. You've got lot of time, believe it or not. You seem
10:32 18 rushed. Don't be rushed -- that is a cumbersome and lengthy
10:32 19 process. And it's gonna go further up on review, trust me,
10:32 20 from the Ninth Circuit.

10:32 21 So the end result is you're fighting all of these
10:32 22 technicalities. You can literally go down -- I'm providing
10:32 23 you that option -- serve the United States. Jurisdiction
10:33 24 takes place today. There's nothing appealable. And you're
10:33 25 in court. That's what I don't understand.

10:33 1 So if this harm is being done, it seems to me that
10:33 2 you're stretching this process procedurally. But I'm not a
10:33 3 lawyer. I'm not a lawyer. So I'm gonna give you the
10:33 4 option, and you can argue. And sometimes we're dead right.
10:33 5 In other words, we're right but we're not doing too well.
10:33 6 And that's what I'm afraid you're in right now; and that is,
10:33 7 I'm afraid tentatively, on a motion for reconsideration,
10:33 8 that you may lose on this. If I don't grant interlocutory
10:33 9 appeal, you have to either take it up or start over. And
10:33 10 that's an incredible waste of time on this issue.

10:33 11 So now I'm done. You can proceed any way you'd
10:33 12 like to. And I'm going to give you the lectern, or you can
10:34 13 remain seated and just tell me what your thoughts are, and
10:34 14 how you'd like to proceed.

10:34 15 MS. TAITZ: Well, first of all, what I would like
10:34 16 to do is I would motion to strike from the record that
10:34 17 appearance of U.S. Attorney because he admitted that he is
10:34 18 not representing the President. And there is absolutely no
10:34 19 reason for him to even be at the defendant's table. And due
10:34 20 to the fact that the U.S. Attorney does not represent the
10:34 21 President -- but clearly the President was served;
10:34 22 otherwise, where did he get the pleadings and knew about
10:34 23 this hearing. The President knew that there is a hearing
10:34 24 today and decided not to show up and not to bring an
10:34 25 attorney who would represent him.

10:34 1 And due to the fact that U.S. Attorney does not
10:34 2 represent anybody in this case and has nothing to do with
10:34 3 this case, and the President ignored the proceedings and
10:34 4 showed disrespect to this proceedings, there's absolutely no
10:35 5 way not to give me a default.

10:35 6 But in order to be fair to Mr. Obama -- and the
10:35 7 issue, again, has -- again, has absolutely nothing to do
10:35 8 with the U.S. Attorney's Office, because I served Mr. Obama
10:35 9 on Inauguration Day as an individual. I served him on the
10:35 10 Inauguration Day clearly for something that he did before he
10:35 11 became the President -- as an individual -- so there is
10:35 12 absolutely no reason for him to be served through U.S.
10:35 13 Attorney's Office. There is absolutely no reason for any of
10:35 14 those people to pay this gentleman to sit here and defend
10:35 15 undefensible (*sic*) -- to defend Mr. Obama committing fraud
10:35 16 in order to get into the White House. We should not be
10:35 17 paying this. This is a very important issue.

10:35 18 If -- if -- if today Mr. Obama decides to divorce
10:35 19 his wife, will the U.S. Attorney spend my taxpayer's money
10:36 20 to defend him in a divorce? No. If there is a parking
10:36 21 ticket, and Mr. Obama didn't pay -- as he, as a matter of
10:36 22 fact, did not pay numerous parking tickets -- I don't
10:36 23 remember how many -- and paid only during the election -- do
10:36 24 I need to pay for his time to sit here and -- and defend
10:36 25 undefensible -- and that's what I've seen all over the

1 country. Since the moment Mr. Obama was elected, he simply
2 ignores service.

3 And I want to present -- and I don't know if you
4 had a chance to see the motion that I have filed. And if
5 you have time, I would like to read it. But there is a
6 pattern of stonewalling by Mr. Obama. He is being served as
7 an individual for something that he did before he became the
8 President. We should not be paying the U.S. Attorney's
9 Office to represent him. U.S. -- uh, he -- U.S. Attorney's
10 Office is not representing anybody.

11 And since there is nobody to even object, there is
12 nobody here who represents Mr. Obama to object to a default,
13 how can you not give me a default? There is absolutely no
14 reason not to give me a default. I mean, you have to. You
15 have no -- no other option.

16 But moreover, in order to speed up the process,
17 what I have seen happening around the country time and
18 again, Mr. Obama is pushing everybody to U.S. Attorney's
19 Office, and then the attorneys who usually work pro bono has
20 to fight with a whole "might" of U.S. Attorney's Office,
21 Department of Justice, who are not interested in uncovering
22 the truth, who are not interested in pursuing justice.
23 They're just interested in defending Mr. Obama. And that is
24 the problem.

25 If I agree today to serve U.S. Attorney's Office,

1 I can tell you, Your Honor, we'll get absolutely nowhere.

2 There is a case in New Jersey --

3 THE COURT: Just a moment.

4 This Court probably moves quicker than any court
5 in the country.

6 MS. TAITZ: Well --

7 THE COURT: No. I'll say that again. This Court
8 does not worry too much about procedure. I like an open
9 courtroom door concerning the merits. You're being given a
10 gift. You're in a very, very quick Court. If this matter
11 is before this Court, I can guarantee you I will know very,
12 very quickly the merits of this situation.

13 My concern is, I don't know that you're correct.
14 Okay? I've had my say. You do what you want. But as soon
15 as you're finished --

16 *(To the U.S. Attorney:)* -- then I'm going to hear
17 from you, Counsel.

18 Okay.

19 MS. TAITZ: And my point, Your Honor -- well, can
20 I read my motion?

21 THE COURT: You can. Counsel, read your motion.
22 But read it slowly so I get a good record of it. And if you
23 have an extra copy, give it to my court reporter.

24 MS. TAITZ: Yes. I have a whole big file for you,
25 Your Honor.

10:38 1 THE COURT: All right.

10:39 2 MS. TAITZ: And I have -- uh, uh, there's a motion

10:39 3 was e-filed. I called you. It's in your box, as well.

10:39 4 THE COURT: Certainly.

10:39 5 MS. TAITZ: And I have all the documents.

10:39 6 But what I wanted to show you, that is -- there is

10:39 7 indeed (*inaudible*).

10:39 8 THE COURT: Would you turn the microphone back on.

10:39 9 MS. TAITZ: Uh, uh.

10:39 10 THE COURT: Would you turn your microphone back

10:39 11 on. Somehow you've --

10:39 12 MS. TAITZ: Can you hear?

10:39 13 THE COURT: Yes.

10:39 14 MS. TAITZ: What I have presented in my motion is

10:39 15 that there is a whole pattern of stonewalling by Mr. Obama,

10:39 16 simply unwillingness to accept service.

10:39 17 THE COURT: Just a moment.

10:39 18 If that's true, I'm shortening this process

10:39 19 dramatically by suggesting that you simply file this or

10:39 20 you're going to have a never ending series of appeals. And

10:39 21 it will take a significant period of time. You're not

10:39 22 hearing that.

10:39 23 MS. TAITZ: No, I'm hearing it.

10:39 24 THE COURT: You are absolutely bent that you're

10:39 25 right concerning jurisdiction. And I've already ruled

10:40 1 against you on one occasion. This is a motion for
10:40 2 reconsideration; and, therefore, you have a substantial
10:40 3 chance of having the same ruling.

10:40 4 In talking to you this way, you're being basically
10:40 5 told that we're going to get to the merits of this very
10:40 6 quickly. The government's just asking for what they believe
10:40 7 is proper service.

10:40 8 I'm suggesting that, even if I was wrong on my
10:40 9 initial ruling, it's gonna take significant time to go
10:40 10 through the Ninth Circuit and maybe the Supreme Court. And
10:40 11 if you believe that this harm is being done, if Obama should
10:40 12 not be President, look at the passage of time.

10:40 13 You could be in court very quickly. But the way
10:40 14 you're proceeding, frankly, whether it's this Court or
10:40 15 another court, it's going to be a lengthy process. Because
10:40 16 even if I rule in your favor, they're going to, in fact,
10:40 17 appeal.

10:40 18 So valid service could be accomplished between the
10:41 19 two of you in a matter of minutes.

10:41 20 MS. TAITZ: Uh, Your Honor -- but again, they have
10:41 21 no standing to appeal because they don't represent anybody.

10:41 22 THE COURT: I've had my say. Counsel, you
10:41 23 continue, then.

10:41 24 MS. TAITZ: But what I would like to suggest is
10:41 25 that, again, since -- according to the U.S. Attorney, he

10:41 1 stated he is not representing anybody in this case, and
10:41 2 Mr. Obama did not show up, what I wanted to suggest is
10:41 3 having a default, and having discovery -- post default
10:41 4 discovery, or maybe having 60-day mediation in the post
10:41 5 default discovery.

10:41 6 And I have prepared a list of documents, vital
10:41 7 records, that I'm looking for. If Mr. Obama, who clearly
10:41 8 was served, who sent U.S. Attorney here, would like to
10:41 9 object -- personally, he's an attorney, or through his
10:41 10 personal attorney -- would like to object to service, he
10:41 11 would have an opportunity to do so during the period of the
10:42 12 post default discovery. And this is -- this will shorten
10:42 13 the process.

10:42 14 But serving today will give 60 days of wasted
10:42 15 time. They've been served. They've got all the papers,
10:42 16 time and -- I have here eight certified mail receipts.

10:42 17 I have here documents from Arizona where very
10:42 18 similar case was filed against Mr. McCain and Mr. Obama.
10:42 19 Mr. McCain responded. There was a different issue.
10:42 20 Mr. Obama stonewalled, simply ignored the proceeding,
10:42 21 disrespected the Court.

10:42 22 And on July the 6th, Mr. Clark Hambling (*phonetic*)
10:42 23 has filed a motion for default -- very similarly filed a
10:42 24 motion for default. And, next day, U.S. Attorney's Office
10:42 25 has filed this Statement of Interest. Statement of Interest

1 does not show that they represent anybody in this -- in this
2 case.

3 But all it shows -- that, in fact, Mr. Obama was
4 served, and he has chosen not to respond. And now he's
5 staring at two motions for default: One from Arizona, one
6 from California, and maybe more coming. And, uh, now I
7 guess he's deciding what to do.

8 I prepared, Your Honor, statements from a number
9 of citizens from all over the country -- from Utah, from
10 Pennsylvania, from Florida, from different states -- where I
11 asked them to help me in serving Department of Justice. And
12 I have eight certified mail receipts. I have affidavits
13 from citizens from different states that have submitted the
14 paperwork, that have sent certified mail, they have called
15 to follow up. I have here -- and I will give you all of
16 those documents. I have here a lady that called twelve
17 times Mr. Holder. They stonewall. They do not respond.
18 And that is the problem.

19 And -- and from what I've seen, from the cases --
20 specifically from -- not my cases. Pennsylvania and
21 New Jersey and other states, the moment U.S. Attorneys
22 becomes involved, the citizens of this country have to waste
23 their taxpayer money to pay for the U.S. Attorney's Office
24 for -- to defend something that Obama did before the
25 election. Clearly has nothing to do with U.S. Attorney's

10:44 1 Office.

10:44 2 And -- and all U.S. Attorney's Office does --
10:44 3 they're not interested on the case -- on the merits.
10:44 4 They're not interested if he is qualified or not. They
10:44 5 would find some technicalities saying there is no
10:44 6 standing -- even though, this case, we have a presidential
10:44 7 candidate, and I have *amicas curia* from another presidential
10:44 8 candidate, and we have a vice presidential candidate --
10:45 9 stating anything, just finding technicalities to throw cases
10:45 10 out of court.

10:45 11 If I serve them today, there will be 60 days for
10:45 12 them to respond. In those 60 days, God knows what's gonna
10:45 13 happen in this country. And then they're gonna file for
10:45 14 extension, as it was in New Jersey, where they've been
10:45 15 filing extension after extension after extension -- half a
10:45 16 year of extensions, and then motions for dismiss -- for
10:45 17 dismissal.

10:45 18 THE COURT: There aren't going to be any
10:45 19 extensions here.

10:45 20 MS. TAITZ: Well, um --

10:45 21 THE COURT: There aren't going to be any
10:45 22 extensions here.

10:45 23 There aren't going to be any extensions here.

10:45 24 Did you hear me?

10:45 25 MS. TAITZ: Yeah. I hear.

10:45 1 THE COURT: All right.

10:45 2 MS. TAITZ: I was wondering is there any way for
10:45 3 Your Honor to order 60-day mediation?

10:45 4 THE COURT: Why would I order mediation? He's
10:45 5 either valid or invalid. He's either the President or not.
10:46 6 What's there to mediate?

10:46 7 MS. TAITZ: In -- well, mediation --

10:46 8 THE COURT: If he doesn't meet the criteria, he's
10:46 9 not the President of the United States. It's just that
10:46 10 simple. And if he does meet the criteria, he is. So what's
10:46 11 the mediation? You want to make him Vice President?

10:46 12 MS. TAITZ: No, no. In terms of documents that
10:46 13 need to be produced, I have a list of documents that I'm --
10:46 14 I'm seeking. And during this period of time, instead of
10:46 15 waiting for the U.S. Attorney's Office for -- for 60 days to
10:46 16 just respond to service, we can -- uh, if we have a default,
10:46 17 uh, today -- if we have default judgment today, specifically
10:46 18 because, as I said, U.S. Attorney didn't even state that
10:46 19 they represent the President, and President did not send his
10:46 20 attorney, there is full reason to -- to grant the default.

10:46 21 And during the 60-day default, uh, um, discovery
10:46 22 I -- I -- I have here motion of all the documents that I'm
10:47 23 speaking for. If Mr. Obama feels that for some reason he
10:47 24 does not want to release any of those documents, he would
10:47 25 have an opportunity to object. His attorney -- I'm sure he

1 will send an attorney who will object, who will state,
2 "Okay. We're prepared to show a certified copy of this
3 document, but not of this one. This is private and this is
4 public." This way, we'll be able to get to the merits.

5 Your Honor, I have here a letter from somebody who
6 is a captain in the U.S. Army, stating that she --

7 THE COURT: I'm just going to joke with you,
8 Counsel: I was in the Marine Corps, so I don't pay
9 attention to the U.S. Army.

10 I'm just joking with you. I do. Army's terrific.

11 MS. TAITZ: Well, Your Honor, I have currently 170
12 plaintiffs -- from Marines, from Army -- one of them, as a
13 matter of fact, Lieutenant Colonel Wiggins (*phonetic*) from
14 U.S. Marines. I have Major General Childers (*phonetic*) from
15 U.S. Army. I have Brigadier General from Air Force. I do
16 have a lot of members of the military. And they're all
17 greatly concerned about what is going on. They're being
18 sent to -- to Afghanistan where they're sitting ducks, where
19 they've been given orders not to shoot back, not to return
20 fire.

21 As a matter of fact, we're going on Thursday to
22 Georgia where a Major, who is employed by Southern Command,
23 is stating he cannot be deployed to Afghanistan in two days
24 because he doesn't know if this President is legitimate --
25 if he's legitimate as the Commander-in-Chief, and if his

10:48 1 orders are legitimate.

10:48 2 What -- I mean, let's see. What would be the
10:48 3 fastest way to obtain the documents?

10:48 4 And, again, Mr. Obama did not state a right to
10:48 5 privacy that he could -- that the documents cannot be
10:48 6 produced. All he is saying, that it's good enough to
10:48 7 produce a computerized image of the documents instead of an
10:49 8 actual document or a certified copy, in which case, what can
10:49 9 he object to?

10:49 10 We're not asking for any money. We -- so there
10:49 11 will be no damage in that. And all we are asking for is to
10:49 12 see that the original documents are -- indeed comply with
10:49 13 the computerized copies that -- that he has, uh, submitted.

10:49 14 Why -- I mean -- I see absolutely no possible
10:49 15 justification not to give default, specifically because
10:49 16 there is nobody objecting. Who is here objecting to
10:49 17 default? He is not representing the President. And the
10:49 18 President did not show up and didn't send his attorney. So
10:49 19 there is nobody to object to -- to my motion for default.
10:49 20 And here is the motion *(reading)*:

10:49 21 "This Court has jurisdiction over Count 1 of
10:49 22 Plaintiff's complaint filed January 20th, 2009, Declaratory
10:49 23 Judgment, regarding Barack H. Obama's status as natural born
10:50 24 citizen and resultant constitutional qualifications to serve
10:50 25 as President."

10:50 1 THE COURT: Slower, and move the microphone
10:50 2 closer. And, if you have a copy, you might give it to the
10:50 3 court reporter.

10:50 4 MS. TAITZ: It's already in your box, Your Honor.

10:50 5 THE COURT: Well, that's nice. You might give it
10:50 6 to the court reporter.

10:50 7 MR. DeJUTE: Can I interpose an objection on the
10:50 8 speaking motion, Your Honor?

10:50 9 THE COURT: Certainly.

10:50 10 MR. DeJUTE: That motion was filed today. I got
10:50 11 the electronic notice of it.

10:50 12 THE COURT: Well, I know that. I'm not going to
10:50 13 resolve it.

10:50 14 Counsel, I don't have that motion before the Court
10:50 15 because it was filed today also.

10:50 16 But you want to read, so I've got lots of time.

10:50 17 MS. TAITZ: Sure.

10:50 18 THE COURT: We can read day and night, if you'd
10:50 19 like to. It's not going to get resolved until I read it.
10:50 20 You filed it today.

10:50 21 MS. TAITZ: Yes.

10:50 22 THE COURT: So there's no value to it until I read
10:50 23 it.

10:50 24 MS. TAITZ: Absolutely.

10:50 25 THE COURT: So you're just doing this for

10:50 1 yourself.

10:50 2 MS. TAITZ: *(No audible response.)*

10:50 3 THE COURT: In other words, I haven't read it yet
10:50 4 'cause I got it today. I've been on the bench. So until I
10:50 5 read that, I don't know why you're reading it into the
10:50 6 record.

10:51 7 But if it makes you feel better, read.

10:51 8 MS. TAITZ: Okay. We do have a number of
10:51 9 observers here in the courtroom that would like to report to
10:51 10 the public what is happening in the courtroom and -- and I
10:51 11 think it is important.

10:51 12 THE COURT: I'm giving you all the time in the
10:51 13 world.

10:51 14 MS. TAITZ: Sure.

10:51 15 THE COURT: Now, I've got a 12:00 o'clock, and
10:51 16 then I've got a criminal calendar at 1:30, so you'll
10:51 17 probably be back at 5:00. Okay?

10:51 18 So start reading.

10:51 19 MS. TAITZ: "This Court has jurisdiction over
10:51 20 Count 1 of the Plaintiffs' complaint filed January 20th,
10:51 21 2009, for declaratory judgment regarding Barack H. Obama's
10:51 22 status as a natural-born citizen and resultant
10:51 23 Constitutional qualifications to serve as President,
10:51 24 pursuant to the Freedom of Information Act, 5 USC,
10:52 25 Paragraph 552(a)(4)(B), and 42 USC, Paragraphs 1983, 1988,

1 Civil Rights Action, and venue is proper in the Central
2 District of California, Santa Ana Division, is the District
3 and division in which Plaintiff Wiley S. Drake lives,
4 Buena Park, Orange County, California.

5 "This matter is justiciable under FOIA 5 USC,
6 paragraph 552(a)(b), 552(b)(2)" (sic) "1988."

7 THE COURT: Now, we don't have any disagreement
8 that this may be the proper jurisdiction.

9 MS. TAITZ: "Under FOIA, an agency such as the
10 Executive Office of the President and the White House,
11 Title 3 CFR, must disclose the information sought -- sought
12 by the requester unless the agency can invoke one of nine
13 exceptions specified in that Act. See 5 USC 552" (sic)
14 "1988." Some of these exemptions protecting personal
15 privacy apply to medical and personnel records.

16 "However, it has been for many years recognized
17 that the medical and personnel records of the *de facto*
18 or" --

19 THE COURT: We can't get a good record of what
20 you're reading, so if it's inaccurate, that's your
21 responsibility.

22 Do you want to start over again?

23 MS. TAITZ: No, I'll continue.

24 THE COURT: Slower.

25 MS. TAITZ: -- "such as Barack Hussein Obama

1 today, and even for candidates for the Presidency of the
2 United States are matters of public interest and concern.

3 "The issue in this case is whether the public
4 interest in a limited number of personnel records on Barack
5 Hussein Obama is sufficient to compel disclosure of one
6 particular document whose existence has been acknowledged
7 and confirmed many times, but which, for whatever as yet
8 undisclosed reasons, neither the private candidate Barack
9 Hussein Obama or the *de facto* President Barack Hussein Obama
10 has been willing to disclose; namely, the 'vault' or 'long
11 form' Hawaii birth certificate, and all related hospital or
12 medical documents, which Plaintiffs contend will finally
13 confirm or denounce Barack Hussein Obama's Article II
14 qualifications to serve and faithfully and execute the
15 Office of President of the United States.

16 "The public had before the election and still has
17 today a compelling interest in the disclosure of this one
18 single bit of critical documentation and all related records
19 and proof. The public's interest is undergirded by two
20 lines of decisions from U.S. Supreme Court. The first line
21 concerns the public's right to the performance of an agency
22 manager, such as an -- including the President as manager of
23 the entire Executive Branch under FOIA. The second line of
24 decisions concerns the vital role in our democratic society
25 played by disclosing facts and track records of candidate

10:55 1 for public office.

10:55 2 "Against this enormous public interest in favor of
10:55 3 disclosing the records on Barack Hussein Obama, the present
10:55 4 defendant, Barack Hussein Obama, is -- by default, has
10:55 5 raised absolutely nothing, nor have the U.S. Attorneys who
10:55 6 attempt to appear as nonparties, neither as representing
10:55 7 Obama, nor any intervening party, nor as '*amesca*' (*sic*)
10:55 8 *curiae* on their own behalf, with their highly irregular
10:55 9 statement of interest, the statutory or rule-based
10:55 10 justification for which does not appear" to be (*sic*) "on the
10:55 11 face of this bizarre filing.

10:55 12 "The Defendant's substantive default is complete
10:56 13 after repeated notification and service.

10:56 14 "Since the FOIA exceptions that permit an agency
10:56 15 to withhold information are narrowly construed, the Court
10:56 16 has no statutory basis to rule for anything except full
10:56 17 production of the limited number of constitutionally
10:56 18 significant documents from the *de facto* Chief Executive
10:56 19 Officer of the United States. It is a matter of public
10:56 20 record that Barack Hussein Obama, both as the Presidential
10:56 21 candidate and the *de facto*, has never denied the relevance
10:56 22 of his birth certificate, but, in fact, repeatedly produced
10:56 23 an unsigned, unofficial document directly and through the
10:56 24 Democratic National Committee.

10:56 25 "Accordingly, even if -- if Barack Hussein Obama

1 were deemed to have appeared and answered or objected to
2 service by and through the U.S. Attorney's Office, which he
3 plainly did not do, Barack Hussein Obama would be equitably
4 and quite possibly judicially estopped by his conduct in
5 prior litigation from raising any FOIA objection to all
6 elements of his personal and medical records under FOIA. As
7 shown in Exhibit B, in prior proceedings, another
8 United States Attorney in the State of California, to wit,
9 Lawrence G. Brown and Yoshinori H.T. Himel, agreed to the
10 production of documents informally rather than by subpoena,
11 Exhibit B."

12 And, Your Honor, I have already subpoenaed, and --
13 uh, those records. And here is the stipulation that I've
14 already achieved with the U.S. Attorney's Office in a prior
15 case on behalf of Ambassador Keyes, and that stipulation
16 converting subpoena into demand. And what's happened with
17 U.S. Attorney's Office, they have agreed -- they have agreed
18 to cooperate and --

19 THE COURT: All right. Now, Counsel, the problem
20 you're running into is that this was filed today. Opposing
21 Counsel does not have this. I have this for the first time.
22 My clerk just handed it to me. And counsel now is going to
23 have time to respond to this.

24 So your reading, quite frankly, is of no
25 consequence. I'm going to read this, and he's going to have

10:58 1 time now to respond.

10:58 2 MS. TAITZ: The only -- well, um --

10:58 3 THE COURT: Therefore, I'm going to order you both

10:58 4 back next Monday.

10:58 5 MS. TAITZ: Okay.

10:58 6 MR. DeJUTE: Very well, Your Honor.

10:58 7 THE COURT: Now, just a moment.

10:58 8 Let's see if we can make sure.

10:59 9 MR. DeJUTE: Before you set any dates,

10:59 10 Your Honor --

10:59 11 THE COURT: No. Just a moment, Counsel.

10:59 12 Well, next week's not available.

10:59 13 But, anyway, Counsel?

10:59 14 MR. DeJUTE: Thank you, Your Honor.

10:59 15 I would just suggest that, before you set any

10:59 16 dates for the motion for default, we have to have a case or

10:59 17 controversy before this Court. And that means that service

10:59 18 has to be properly effected.

10:59 19 I'm prepared to respond, as Your Honor said I

10:59 20 could, if you wish me to do that now.

10:59 21 Counsel has --

11:00 22 THE COURT: Service has to be appropriate.

11:00 23 MR. DeJUTE: Service has to be appropriate.

11:00 24 The motion for default is not properly before this

11:00 25 Court because this Court has noticed a motion or a hearing

11:00 1 for reconsideration on the Court's ruling that service was
11:00 2 improper, and so that's what's before this Court.

11:00 3 Briefly, we are not here representing Barack Obama
11:00 4 because it's our position that he was not properly served.
11:00 5 His default can't -- it's no disrespect. His default simply
11:00 6 cannot be taken because you can't take the default of
11:00 7 someone who wasn't served.

11:00 8 THE COURT: Counsel's raised the question: Then
11:00 9 why are you here --

11:00 10 MR. DeJUTE: And I can answer that.

11:00 11 THE COURT: -- and that's because he's President
11:00 12 of the United States. That's why you can make your
11:00 13 appearance.

11:00 14 MR. DeJUTE: Well, we're making the appearance on
11:00 15 behalf of the United States. Counsel suggests it's not
11:00 16 pursuant to any statute. The first line of what we filed
11:00 17 points her to the statute: 28 USC, Section 517. And it
11:00 18 says that the United States can appear in any matter in any
11:00 19 civil court when there's an interest involving the
11:01 20 United States.

11:01 21 Whether or not Barack Obama is properly The
11:01 22 President is an interest of the United States as determined
11:01 23 by the Attorney General. And I would simply suggest that
11:01 24 this is not a case of a divorce proceeding. This is not a
11:01 25 case of a traffic ticket. This is a case in which

11:01 1 plaintiffs allege that he is not properly obligated to hold
11:01 2 the Office.

11:01 3 THE COURT: I agree. I think it's as simple as
11:01 4 this:

11:01 5 *(To Plaintiffs' counsel:)* If there's not going to
11:01 6 be a refiling, Counsel, I'm simply going to decide on this
11:01 7 Motion for Reconsideration concerning jurisdiction.

11:01 8 And what you're speaking to are the merits, again.
11:01 9 I've given you a vehicle, an avenue to get into court. I
11:01 10 think that this is going to end up being a nonending series
11:01 11 of appeals, quite frankly. And the way you're both
11:01 12 proceeding is going to take an extreme amount of time. And
11:01 13 I wish this would be resolved on its merits quickly. And
11:01 14 he's either not President or he is.

11:02 15 But, apparently, you're both bent on taking the
11:02 16 long way around this. So that's what we'll do.

11:02 17 MR. DeJUTE: I can --

11:02 18 THE COURT: Counsel, you're not ordered to -- I
11:02 19 wasn't smiling at you, was I?

11:02 20 MR. DeJUTE: I'm sorry, Your Honor.

11:02 21 THE COURT: No. Good.

11:02 22 Now, this latest motion, Counsel, I agree: It
11:02 23 doesn't come to the Court the day of a hearing and then get
11:02 24 credence with the Court.

11:02 25 And number two, it's putting the horse before the

11:02 1 cart. And we're not going to get to the merits of this
11:02 2 unless I have proper service. Already I've held on one
11:02 3 occasion that I don't believe it is. I'll relook at that
11:02 4 issue again. But I think I'm going to stop the reading of
11:02 5 this document because it goes to the merits, which is what
11:02 6 I'd like to get to; but, apparently, we're not going to be
11:03 7 able to.

11:03 8 MR. DeJUTE: May I make one comment, Your Honor?

11:03 9 THE COURT: No.

11:03 10 Now, I don't think that there's anything further
11:03 11 that's beneficial to this Court today. And I'm going to
11:03 12 stop the reading of your document just because, first, I
11:03 13 haven't read it; second, I can read it; three, serve it
11:03 14 beforehand if you want me to read that. I was here all
11:03 15 weekend. Would have been happy to have read it this
11:03 16 weekend. But not on the day of the hearing.

11:03 17 MS. TAITZ: Uh, well --

11:03 18 THE COURT: No. Thank you very much, counsel. I
11:03 19 didn't think I had given you permission to speak yet,
11:03 20 either.

11:03 21 So I want you two to have a very brief
11:03 22 conversation. That's not a request; it's an order.

11:04 23 Get up out of your seats.

11:04 24 Get up out of your seat. Approach each other. Go
11:04 25 through those double doors and decide between the two of you

11:04 1 what gets this case into court as quickly as possible in a
11:04 2 practical sense.

11:04 3 Counsel, I was speaking. You two will have a
11:04 4 conversation first. In other words, I'm giving you both
11:04 5 control right now before I step in with a heavy hand.

11:04 6 How do you get the case into court quickly, which
11:04 7 is what each of you want. Okay. Good-bye. I'll see you in
11:04 8 a few moments. Good-bye.

11:04 9 MR. DeJUTE: We've had that discussion,
11:04 10 Your Honor.

11:04 11 THE COURT: Go outside the door for a moment.
11:04 12 You're having it again. And then come on back in after
11:04 13 you've had a brief discussion. I want to make sure you've
11:04 14 thoroughly discussed this.

11:04 15 *(Counsel exit the courtroom.)*

11:04 16 *(Pause in the proceedings at 11:04 a.m.)*

11:04 17 *(Proceedings resumed at 11:06 a.m.)*

11:06 18 THE COURT: Okay. Would the CSO get them.
11:06 19 They've had time.

11:06 20 COURT SERVICES OFFICER: Yes, Your Honor.

11:06 21 THE COURT: Thank you, Counsel, for your courtesy.
11:06 22 I don't care what the resolution is. I just wanted another
11:06 23 brief discussion between the two of you. I assume you
11:06 24 haven't reached a resolution.

11:06 25 MS. TAITZ: Yes, we did. Actually, we did.

11:06 1 THE COURT: I'm sorry?

11:06 2 MR. DeJUTE: I suggested, Your Honor, that if the
11:06 3 Plaintiffs were to serve the U.S. Attorneys Office properly,
11:06 4 we would respond within 60 days and not seek an extension.

11:06 5 THE COURT: I think that, between the two of you,
11:06 6 it would get it into the court the fastest possible way
11:06 7 because, if you don't do that, there's going to be a series
11:06 8 of appeals no matter what. You're going to tie this case up
11:06 9 in the Ninth Circuit for nine months to a year -- I mean, in
11:06 10 a practical sense.

11:07 11 But, Counsel, I'll look to both of you.

11:07 12 MR. DeJUTE: No, I have no statement.

11:07 13 THE COURT: No extensions, 60 days, proper
11:07 14 service, and we're all done with all the legal nonsense.
11:07 15 We're right into court.

11:07 16 MS. TAITZ: Well -- okay. Well, what we suggested
11:07 17 to the counsel, and I believe -- I guess what we're gonna do
11:07 18 is, if he accepts service today, we will send a FOIA request
11:07 19 for a 30-day response.

11:07 20 MR. DeJUTE: I haven't seen it, Your Honor. I
11:07 21 haven't -- they may do anything they wish.

11:07 22 THE COURT: That's not an agreement that he's
11:07 23 going to comply with that. But get the case into court, for
11:07 24 goodness sakes.

11:07 25 MS. TAITZ: Okay.

11:07 1 THE COURT: I mean, if he's not President, he
11:07 2 shouldn't be President; if he is, he should be. And we need
11:07 3 to resolve this on the merits.
11:07 4 I'm sorry. Is the young lady back here helping
11:07 5 me?
11:07 6 MEMBER OF THE AUDIENCE: No.
11:07 7 THE COURT: No. Good. Don't help me. You can
11:07 8 sit there very quietly now.
11:07 9 So, Counsel, if you want me to resolve this, I
11:07 10 will. I suggest to you tentatively that the ruling would be
11:08 11 unfavorable to you. Okay?
11:08 12 MS. TAITZ: Well, I --
11:08 13 THE COURT: And, therefore, if you can file today,
11:08 14 it resolves all the jurisdictional issues. It will spin
11:08 15 through the labyrinth, but it will come right back to this
11:08 16 Court.
11:08 17 MR. DeJUTE: You misspoke. Not "file."
11:08 18 THE COURT: I said if you "file" it?
11:08 19 THE CLERK: "Serve."
11:08 20 MR. DeJUTE: "Serve."
11:08 21 THE COURT: I mean "serve it." My apologies. If
11:08 22 you serve it, it will come right back to this Court and
11:08 23 we'll expedite it. He's representing no extensions, and we
11:08 24 move pretty quick here.
11:08 25 MS. TAITZ: Okay.

11:08 1 THE COURT: Pretty quick for both of you.

11:08 2 So don't be shocked. When you come back to this

11:08 3 Court, I'm going to be putting a lot of pressure on both of

11:08 4 to you produce. And, therefore, if you need, you know,

11:08 5 help -- or you need help -- expect this case to move. So

11:08 6 get the support in here because you'll be surprised.

11:08 7 Now, I'm not joking for just a moment.

11:08 8 How late have we been on the record with both

11:08 9 counsel arguing a matter?

11:08 10 *(To the reporter:)* You start first.

11:08 11 COURT REPORTER: 1:00 a.m.

11:09 12 THE COURT: Kristee.

11:09 13 THE CLERK: 1:00 a.m. and weekends.

11:09 14 THE COURT: Clerks.

11:09 15 LAW CLERKS: *(In unison:)* 1:00 a.m. and weekends.

11:09 16 THE COURT: "And weekends."

11:09 17 So that means Saturdays I work. I've had the

11:09 18 Aryan Brotherhood, 30 defendants, with 30 murders, and we

11:09 19 worked every weekend. Every Saturday they were in here with

11:09 20 25 marshals.

11:09 21 So if you want this case expedited, I'll expedite

11:09 22 it, and I'll get the documents in front of this Court, I

11:09 23 mean immediately. There's no question about that.

11:09 24 *(To Plaintiffs' counsel:)* Because, if you're

11:09 25 correct, then from your perspective and the country's

11:09 1 perspective, he's not President.

11:09 2 (To U.S. Attorney:) If you're correct, we set this
11:09 3 aside immediately. It's done, and the country isn't sitting
11:09 4 there wondering who the Commander-in-Chief is or who the
11:09 5 President of the United States is.

11:09 6 And I just want to thank both of you because,
11:09 7 without following this process -- which, quite frankly, I'm
11:09 8 leaning on you to do -- this is a never-ending series of
11:09 9 appeals. It's gonna go to the Ninth Circuit, the Supreme
11:10 10 Court, back, we're gonna be back here literally a year to a
11:10 11 year and a half from now.

11:10 12 Why? It's not fair to the public.

11:10 13 Okay. So you're going down and serve?

11:10 14 MS. TAITZ: Uh, yeah. And, uh --

11:10 15 THE COURT: No, no. Yes?

11:10 16 MS. TAITZ: Yes. And --

11:10 17 MR. LINCOLN: The law clerk will see to it, sir.

11:10 18 THE COURT: When? By 12:00 o'clock?

11:10 19 MR. LINCOLN: No.

11:10 20 THE COURT: By 12:00 o'clock?

11:10 21 MR. LINCOLN: I think we'll have to make copies of
11:10 22 one thing.

11:10 23 THE COURT: By 1:30?

11:10 24 MS. TAITZ: (Inaudible) amend the complaint.

11:10 25 MR. LINCOLN: We may amend later. She's asking

1 about that. We'll serve the current copy now.

2 THE COURT: Current copy now.

3 MS. TAITZ: I have it with me.

4 THE COURT: Just a moment. See how quickly we're
5 going to move?

6 Counsel is going to walk with you down to the
7 U.S. Attorney's Office.

8 Correct?

9 MR. DeJUTE: If you order, sir.

10 THE COURT: I'm ordering it.

11 MS. TAITZ: It's ready for him.

12 THE COURT: And that takes care of all the
13 problems.

14 In other words, we're not -- otherwise, he leaves
15 court. You serve downstairs. You're both ordered to go
16 down to the U.S. Attorney's Office right now, get the proper
17 service in place. We'll spin it through the mechanism. It
18 will be back to me probably within a day or two.

19 What it does is goes back on the wheel, but
20 because I had the case --

21 THE CLERK: They're not refiling. They're just
22 serving.

23 THE COURT: They're just serving. That's right.
24 My apologies. You're just serving so it stays right here.
25 And so it saves a day.

11:11 1 So you're gonna file immediately?

11:11 2 MR. LINCOLN: I believe -- we have to make a copy,

11:11 3 like I said, Your Honor. And we have to do -- does the --

11:11 4 does -- the U.S. Attorney, do they waive service of the

11:11 5 summons? Do we have to get a summons issued?

11:11 6 MR. DeJUTE: I don't think I'm authorized to waive

11:11 7 summons. But I can tell you, we will not stand on fact

11:11 8 *(inaudible)* --

11:11 9 MR. LINCOLN: Your Honor, do we order that we get

11:11 10 a summons done?

11:11 11 MR. DeJUTE: I think I've said you don't need a

11:12 12 summons.

11:12 13 MR. LINCOLN: Okay.

11:12 14 MR. DeJUTE: I'm not authorized to do so, but we

11:12 15 will not "not respond" because there's not a summons.

11:12 16 MS. TAITZ: Okay. Well, here you go.

11:12 17 *(Indicating)*. Now we've just served.

11:12 18 THE COURT: No. Just go down to the

11:12 19 U.S. Attorneys Office, so it's in the proper area. I'm

11:12 20 going to follow all the rules so it's done. It's a proper

11:12 21 service at the U.S. Attorney's Office.

11:12 22 MR. DeJUTE: If I may inquire, Your Honor. The

11:12 23 motion sought to dismiss Counts 2 and 3, and all other

11:12 24 defendants other than Barack Obama.

11:12 25 I simply want to inquire whether or not that is

11:12 1 how we should respond?

11:12 2 THE COURT: Yeah, I forgot.

11:12 3 You were going to dismiss Count 2 and 3 and the
11:12 4 other defendants?

11:12 5 MS. TAITZ: Yes, yes.

11:12 6 THE COURT: Your disagreement's really with Obama.

11:12 7 MS. TAITZ: Yes, exactly.

11:12 8 THE COURT: Is that still acceptable?

11:12 9 MS. TAITZ: Yes, yes.

11:12 10 THE COURT: Then, why don't I simply -- first of
11:12 11 all, I'll remember that. And if not, on the next occasion,
11:12 12 because you're refiling the original document, I'll simply
11:12 13 make that --

11:12 14 MR. DeJUTE: Just "serving" it, Your Honor?

11:12 15 MS. TAITZ: "Serving."

11:12 16 THE COURT: Thank you very much, Counsel.

11:12 17 I'll simply make that notation, and I'll strike
11:13 18 that at the time. So even if they're serving the original
11:13 19 document, I don't think we have to worry about Mr. Mueller,
11:13 20 et al.

11:13 21 MR. DeJUTE: *(Inaudible.)*

11:13 22 COURT REPORTER: Can you either speak louder or
11:13 23 turn on your microphone.

11:13 24 MR. DeJUTE: Only obligation's to respond to Obama
11:13 25 and Count 1?

11:13 1 THE COURT: Only to Obama and Count 1.

11:13 2 Is that your understanding, also: Obama and

11:13 3 Count 1?

11:13 4 MS. TAITZ: Yeah.

11:13 5 MR. LINCOLN: But we do reserve the right to

11:13 6 amend, right, Your Honor? For -- one free amendment before

11:13 7 the answer?

11:13 8 THE COURT: Yes, you do. And not only that, I use

11:13 9 my discretion, even -- it's one free amendment, but also I'm

11:13 10 pretty liberal about amendments. I just am encouraging the

11:13 11 two of you to move on this case. And once I've got it back

11:13 12 in the proper format, we'll go quickly. Okay.

11:13 13 So therefore, I don't know why you need FOIA

11:13 14 requests. I mean, go ahead and file 'em if you want to.

11:13 15 But the Court's going to be making orders, which will

11:13 16 probably be a lot quicker than your FOIA request. Right?

11:14 17 Well, now, Counsel, I want to thank both of you.

11:14 18 I think we finally got it in a posture that we can decide it

11:14 19 on the merits. And I really appreciate it. If I was

11:14 20 discourteous to each of you, I apologize. It's just

11:14 21 frustrating watching what's happening here.

11:14 22 And now, I think we've got a vehicle to get this

11:14 23 before the Court as quickly as possible and not waste

11:14 24 people's time.

11:14 25 Thank you very much.

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MR. LINCOLN: God save this Honorable Court.

THE COURT: Thank you very much, Counsel -- or
clerk. Appreciate it.

(At 11:14 a.m., proceedings were adjourned.)

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CERTIFICATE

I hereby certify that pursuant to Section 753,
Title 28, United States Code, the foregoing is a true and
correct transcript of the stenographically reported
proceedings held in the above-entitled matter and that the
transcript page format is in conformance with the
regulations of the Judicial Conference of the United States.

Date: September 12, 2009

DEBBIE GALE, U.S. COURT REPORTER
CSR NO. 9472, RPR

DEBBIE GALE, U.S. COURT REPORTER