

DR. ORLY TAITZ ESQ  
CA BAR LICENSE 223433  
ATTORNEY PRO SE  
29839 SANTA MARGARITA, CA 92688  
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ORLY.TAITZ@GMAIL.COM

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

AUG 08 2011

at 10 o'clock and 50 min. A  
SUE BEITIA, CLERK

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

DR. ORLY TAITZ, ESQ, PRO SE,

Plaintiff,

v.

MICHAEL ASTRUE, COMMISSIONER:  
OF THE SOCIAL SECURITY  
ADMINISTRATION,

Defendant.

Misc. Action No.

MC11 100158 SOM  
RLP

PENDING IN THE DISTRICT OF  
COLUMBIA

Civil Action No.: 11-cv-00402-RCL  
The Honorable Royce C. Lamberth

**[PROPOSED] ORDER ON EX-PARTE EMERGENCY MOTION FOR  
EMERGENCY ORDER TO SHOW CAUSE AND  
TO COMPEL ATTENDANCE FOR PRODUCTION OF DOCUMENTS  
AND  
FOR ATTORNEYS' FEES AND COSTS**

This court, having considered plaintiff's motion for an order to show cause, and to compel attendance for production of documents, and for attorneys' fees and costs, the memoranda of the parties, and the whole record herein:

It is hereby ORDERED that Loretta Fuddy, Health Department, State of Hawaii, 1250 Punchbowl Street, Honolulu, HI 96813, appear in the United States

District Court, in and for the District of Hawaii, in Judge

\_\_\_\_\_ courtroom on the 9 day of August, 2011, at

\_\_\_\_\_ AM/PM, and produce the documents described in the subpoena which

was issued and served upon Fuddy, and, failing that production, show cause, if she

can, why the documents in question should not be produced and for attorneys' fees

and costs as incurred by plaintiff in bringing this action before the court, should not

be granted.

Honolulu, Hawaii this the \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
J U D G E

1. The underlying action involves a refusal of the Social Security Administration (“SSA”) to produce a Form SS-5 requested under the Freedom of Information Act. Evidence suggests that the Social Security Number (“SSN”) issued as a result of that application was fraudulently obtained or has been fraudulently used by someone other than the person to whom issued. The SSA, citing privacy concerns and 5 U.S.C. § 552(b)(6), has refused to supply the information requested. Plaintiff reasonably believes that the birth records the subject of the subpoena in issue here are relevant to and may have been the basis of the SSN application the

subject of the superior action in the United States District Court for the District of Columbia, or the subsequent fraudulent use of that SSN by a different and illegal "holder".

2.

Fuddy was subpoenaed to appear and produce documents and things on August 8, 2011, at the offices of the Health Department, State of Hawaii, 1250 Punchbowl Street, Room 325, Honolulu, HI 96813. See EXHIBIT A. The subpoena was properly issued and served upon Fuddy, both through the Office of the Attorney General of HI, 485 South King Str. Room 200, Honolulu, HI 96813 and directly at the offices of the Health Department, State of Hawaii, 1250 Punchbowl Street, Room 325, Honolulu, HI 96813. Service was done both by Certified mail return receipt and Federal Express. Exhibit B, C. Fuddy received the subpoena, properly issued under Rule 45, yet she failed to appear and she failed to produce any documents or things.

3.

Fuddy received the subpoena on 07.11.2011. Such a method of service is designed to and did result in actual notice of the subpoena to Fuddy. *Doe v. Herseman*, 155 F.R.D. 630 [N.D. Ind. 1994]; *King v. Crown Plastering Corp.*, 170 F.R.D. 355, 356 [E.D. N.Y 1997] [holding that Rule 45's language does not require "in-hand service", but only service in a manner that "reasonably insures actual of the subpoena by the witness"]; *Hartford Fire Ins. Co. v. Perinovic*, 152 F.R.D. 128, 130 [N.D. Ill. 1993] [upholding service of process on doorman of residence of defendant who was evading service]; *Abbott v. Kidder, Peabody & Co.*, 1997 WL 337228 [U.S.D.C. N. D. Ill. 6/16/97]; Fed.R.Civ.Proc. 45.

4.

Fuddy failed to appear as ordered by the subpoena. Fuddy did not contact plaintiff's counsel or otherwise seek relief from the subpoena. On 07.28.2011 Fuddy received a Fed Ex letter from the counsel, advising her, that the counsel and two experts will need to travel from the mainland to HI and will spend thousands of dollars on airfare, hotel, car rental and other costs and fees and Fuddy was requested to advise the counsel, whether she will refuse to comply with the subpoena, so that the counsel can mitigate damages. Exhibit D. Fuddy did not respond. On 08.08.2011 Fuddy refused to comply with the subpoena. Experts are scheduled to fly back to the continental US tomorrow evening.

5.

Due to exigency and tremendous expenses and costs, Plaintiff respectfully seeks an EMERGENCY ORDER TO SHOW CAUSE to be returned tomorrow, on 08.09.2011 compelling Fuddy's attendance tomorrow, August 9, 2011 at the

emergency hearing for production of documents as previously scheduled in the subpoena which was issued and served upon Fuddy. Plaintiff seeks to have Loretta Fuddy ordered to appear and produce the documents subpoenaed.

6.

Failing Fuddy's appearance and production of the documents subpoenaed, plaintiff respectfully seeks an order holding Fuddy in contempt of this court, and further directing the issuance of a bench warrant for the arrest of Loretta Fuddy.

7.

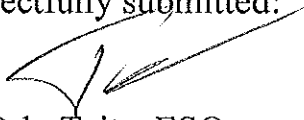
Plaintiff respectfully seeks an order assessing Loretta Fuddy for plaintiff's attorneys' fees and costs incurred in bringing this action before the court, and for such further relief as this court may deem just and appropriate.

8.

Plaintiff respectfully does not submit a separate memo as it would be redundant.

WHEREFORE Plaintiff PRAYS that this emergency ex parte motion for an emergency order to show cause and compel attendance for production of documents and for attorneys' fees and costs be granted and that the requested relief be ordered.

Respectfully submitted:



Dr. Orly Taitz, ESQ

Attorney-pro se

29839 Santa Margarita pkwy, ste 211

Rancho Santa Margarita, CA 92688

Ph 949-683-5411

[Orly.Taitz@gmail.com](mailto:Orly.Taitz@gmail.com)

**EXHIBIT A**

UNITED STATES DISTRICT COURT

for the  
District of Hawaii

Taitz

Plaintiff

v.

Astrue

Defendant

Civil Action No. 1:11-cv-0040

(If the action is pending in another district, state where:

USDC District of Columbia

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS  
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Ms. Loretta Fuddy, Director of Health, State of  
Hawaii Department of Health

☒ Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling material: original 1961 typewritten birth certificate #1061 for Barack Obama, III issued 08.08.1961, signed by Dr. O. Sinclair, Stanley Ann Durham Obama and registered stored in the Health Department of the State of Hawaii from 8/8/61 to 8/8/61.

Place: Health Department  
State of HI  
1250 Punchbowl Str. room 325  
Honolulu, HI 96813

Date and Time: August 8, 2011  
10 am

☐ Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Fed. R. Civ. P. 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 0705.2011

CLERK OF COURT

11



OR

Signature of Clerk or Deputy Clerk

Attorney's signature

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for (name of individual and title, if any) Loretta Fuddy  
was received by me on (date) 07.05.2011

☒ I served the subpoena by delivering a copy to the named person as follows: by certified  
return receipt sent to Attorney General of HI, 483  
King str, room 200, Honolulu HI on (date) 07.05.2011; or  
96813  
☐ I returned the subpoena unexecuted because:

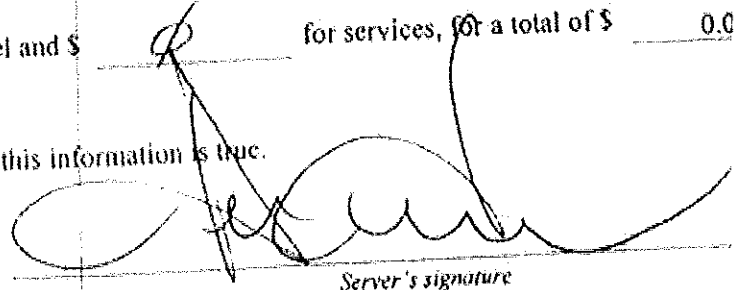
Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have at-  
tended to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of

\$ 0

My fees are \$ 0 for travel and \$ 0 for services, for a total of \$ 0.0

I declare under penalty of perjury that this information is true.

Date: 07.05.2011

  
Server's signature

LILA DUPERT  
Printed name and title

Law Offices of Orly Taitz, Esq.  
29839 Santa Margarita Pkwy, Ste 100  
Rancho Santa Margarita, CA 92688

Additional information regarding attempted service, etc:

## **EXHIBIT B**



SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the back if space permits.</p>		<p>A. Registered <input checked="" type="checkbox"/> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>Jill T. Magamine Deputy Attorney General State of Hawaii 465 South King Street, Room 200 Honolulu, HI, 96813</p>		<p>B. Received by (Printed Name) <i>J. T. Magamine</i> C. Date of Delivery <i>7/11/79</i></p>	
		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</p>	
		<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.            4. Restricted Delivery? Extra Fee <input type="checkbox"/> Yes <input type="checkbox"/> No         </p>	
<p>2. Article Number (Postnet barcode)</p> <p>7010 1670 0003 3995 0768</p>			
<p>PS Form 3811, February 2001 Domestic Return Receipt 120595-01 M-1141</p>			

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the back if space permits.</p>		<p>A. Registered <input checked="" type="checkbox"/> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>Attorney General of HI 465 South King St. Room 200 Honolulu, HI 96813</p>		<p>B. Received by (Printed Name) <i>Dane Smith</i> C. Date of Delivery <i>7/11/79</i></p>	
		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</p>	
		<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.            4. Restricted Delivery? Extra Fee <input type="checkbox"/> Yes <input type="checkbox"/> No         </p>	
<p>2. Article Number (Postnet barcode)</p> <p>7008 3230 0001 8413 5124</p>			
<p>PS Form 3811, February 2001 Domestic Return Receipt 120595-01 M-1141</p>			

# **EXHIBIT C**



30102 SANTA MARGARITA PKY  
RANCHO SANTA MARGARITA, CA 92669

Location: RZJK  
Device ID: RZJK-F052  
Employee: 2271078  
Transaction: 77026844043

PRIORITY OVERNIGHT  
875629497065 0.15 lb (S) 42.41  
Direct Signature

Scheduled Delivery Date 07/28/2011

Shipment subtotal: 42.41

Total Due: 42.41

(V) CreditCard: 42.41  
\*\*\*\*\*2037

X - Weight entered manually  
S - Weight read from scale  
I - Insurable item

Subject to additional charges. See FedEx Service Guide  
at [fedex.com](http://fedex.com) for details. All service-size sales final.

Visit us at: [fedex.com](http://fedex.com)  
Or call 1.800.GoFedEx  
1.800.463.3339

**FedEx** NEW Package  
Express US AIRBILL 8756 2949 7065

1 From Please print and press hard.  
Date 7-27-11 Sender's FedEx Account Number  
Sender's Name Law Offices of Oly T. Jr., Esq. 449.766 7687  
Company  
Address 29839 Santa Margarita Pkwy Ste 100  
Rancho Santa Margarita CA 92688

2 Your Internal Billing Reference  
3 To  
Recipient's Name Lauretta Fuddy  
Company Director of Department of Health  
Address 1250 Punchbowl St Rm 325  
Honolulu HI 96813

The FedEx US Airbill has changed. See Section 4

0200 JH

4 Express Package Service

5 Packaging

6 Special Handling and Delivery Signature Options

7 Payment

8

## **EXHIBIT D**



30102 SANTA MARGARITA PKY  
RANCHO SANTA MARGARITA, CA 92688

Location: NZJRK  
Device ID: NZJRK-P052  
Employee: 2271078  
Transaction: 77026644043

PRIORITY OVERNIGHT  
875629497065 0.15 lb (S) 42.41  
Direct Signature

Scheduled Delivery Date 07/28/2011

Shipment subtotal: 42.41

Total Due: 42.41

(V) CreditCard: 42.41

\*\*\*\*\*12037

M = Weight entered manually  
S = Weight read from scale  
I = Insurable item

Subject to additional charges. See FedEx Service Guide  
at [fedex.com](http://fedex.com) for details. All merchandise sales final.

Visit us at: [fedex.com](http://fedex.com)  
Or call 1.800.GoFedEx  
1.800.463.3339

LAW OFFICES OF DR. ORLY TAITZ ESQ  
29839 SANTA MARGARITA PKWY, STE 100  
RANCHO SANTA MARGARITA CA 92688  
PH. 949-683-5411 FAX 949-766-7603  
[Orly.taitz@gmail.com](mailto:Orly.taitz@gmail.com)  
07.27.2011

FedEx NEW Package  
Express US Airbill  
8756 2949 7065

1 From Please print and press hard  
Date 7-27-11 Sender's FedEx Account Number 8756 2949 7065  
Sender's Name Law Offices of Orly Taitz Esq. 949-766-7603

Company

Address 29839 Santa Margarita Pkwy Ste 100  
Rancho Santa Margarita CA 92688

2 Your Internal Billing Reference

3 To Recipient's Name Lauretta Fuddy Postal  
Company Director of Department of Health  
Address 1250 Punchbowl St. Rm 325  
City Honolulu State HI Zip 96813



The FedEx US Airbill has changed. See Section 4  
for information on the new format and features. From US 2nd

Personal and Confidential  
Attention Loretta Fuddy  
Director Health Department  
State of Hawaii  
1250 Punchbowl str Room-325  
Honolulu, HI 96813

Dear Ms. Fuddy,

On July 5, 2011 a subpoena was issued by the US District Court for the District of Hawaii and signed by the clerk of the court, directing you to allow on August 8, 2011 inspection of the original 1961 typewritten birth certificate # 10641 for Barack Obama, II issued 08.08.1961, signed by Dr. David Sinclair, Stanley Ann Dunham Obama and registrar Lee, stored in the Health Department of the State of Hawaii from 08.08.1961 until now. (exhibit 1 attached).

Due to the fact that Deputy Attorney General of Hawaii, Jill T. Nagamine, advised me, that she is representing you in this matter, as she was the one to respond to a prior subpoena, issued by me as an attorney; and as a courtesy to you, I served you with this, July 5 subpoena, through your attorney, Deputy Attorney General Nagamine. According to the certified mail receipt Ms. Nagamine received the subpoena on July 11, 2011. She had 14 days to file an opposition to this court issued subpoena. It has been 16 days, since the subpoena was received by Ms. Nagamine, however there is no record of any opposition filed. As such, it is my understanding, that you will comply with the subpoena and I would like to confirm this. As my experts and I do not reside on the islands of Hawaii, and since we need to make arrangements for flights, hotel and other accommodations, and in light of the fact, that you, according to your attorney, refused to comply with the prior subpoena, I am writing this letter and I am trying to ascertain:

1. Whether Ms. Nagamine put you on notice of this July 5, 2011 subpoena signed by the clerk of the court.
2. Whether you will comply with the subpoena and will allow inspection of the original birth certificate for Mr. Obama, or whether you refuse to comply with the subpoena signed by the clerk of the US District Court for the District of Hawaii.

As the time is of the essence, this letter is being shipped to you by FedEx and will be received by you on Thursday 07.28.2011. I request a response with the above information in regards to compliance with the subpoena by the end of the work day on 07.29.2011 via e-mail to be sent to my e-mail address at [orly.taitz@gmail.com](mailto:orly.taitz@gmail.com) Sincerely, Dr. Orly Taitz, ESQ Exhibit 1 July 5, 2011 Subpoena

UNITED STATES DISTRICT COURT

for the

District of Hawaii

Taitz

Plaintiff

v.

Astrue

Defendant

Civil Action No. 1:11-cv-00402 RCL

(If the action is pending in another district, state where:

USDC District of Columbia

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS  
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Ms. Loretta Fuddy, Director of Health, State of  
Hawaii Department of Health

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: original 1961 typewritten birth certificate #10641 for Barack Obama, III issued 08.08.1961, signed by Dr. David Sinclair, Stanley Ann Dunham Obama aka 2011 street car, stored in the Health Department of the State of HI, from 08/08/1961 until now

Place: Health Department  
State of HI  
1250 Punchbowl str. room 325  
Honolulu HI 96813  
Date and Time: August 8, 2011  
10 am

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place: Date and Time:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 0705.2011

CLERK OF COURT

Signature of Clerk or Deputy Clerk

OR

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Dr. Orly Taitz  
29839 Santa Monica RSM CA 92646, who issues or requests this subpoena, are:  
orly.taitz@ymca.e.com 949-683-5411

Civil Action No.

**PROOF OF SERVICE**

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for (name of individual and title, if any) Loretta Fuddy  
was received by me on (date) 07.05.2011

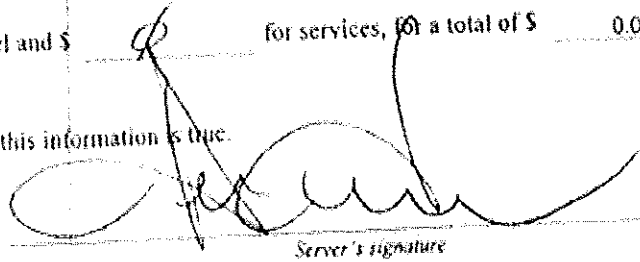
☒ I served the subpoena by delivering a copy to the named person as follows: By certified mail  
return receipt sent to Attorney General of HI, 485 South  
King St, room 200, Honolulu HI on (date) 07.05.2011; or  
96813  
☐ I returned the subpoena unexecuted because:

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of

\$ 0  
My fees are \$ 0 for travel and \$ 0 for services, for a total of \$ 0.00

I declare under penalty of perjury that this information is true.

Date: 07.05.2011

  
Server's signature

LILA DUPERT  
Printed name and title

**Law Offices of Orly Taltz, Esq.**  
29839 Santa Margarita Pkwy, Ste 400  
Rancho Santa Margarita, CA 92688

Additional information regarding attempted service, etc: