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CIRCUIT COURT FOR THE FIRST CIRCUIT HONOLULU, HAWAII

	) PETITION FOR A WRIT OF MANDAMUS
DR. ORLY TAITZ, ESQ	) REQUEST FOR INSPECTION OF RECORDS
PLAINTIFF	UNDER UNIFIED INFORMATION PRACTICES ACT
	) STATUTE 92F, STATE OF HAWAII
V	) CIVIL 11-1-1731-08
	) HON. RHONDA NISHIMURA PRESIDING
LORETTA FUDDY IN HER OFFICIAL CAPACITY AS	) FILED AUGUST 10, 2011
DIRECTOR OF THE DEPARTMENT OF HEALTH	) AGENCY APPEAL
STATE OF HAWAII,	) DATE OF HEARING:
DR. ALVIN T. ONAKA,	) **NOVEMBER 30, 2011, 10:00 AM**
	)**Reply to opposition to Amended**
IN HIS OFFICIAL CAPACITY AS	**)EMERGENCY MOTION FOR REHEARING**
THE REGISTRAR, DEPARTMENT OF HEALTH	) MOTION TO STAY FINAL ORDER PENDING
STATE OF HAWAII	) REHEARING

Dr. Orly Taitz, Esq. ("Taitz") hereby replies to Defendants' Opposition to Motion for Rehearing/Reconsideration as follows:

Taitz filed an **amended** motion for reconsideration. Amended motion was filed with the court and served upon the defendants through their attorney. Defendants **never filed an opposition to the amended mo**tion and as such Plaintiff is respectfully asks this court to find that the **defendants conceded to the points brought forward in the amended motion and are not opposing it, as such inspection of the document in question should be granted.**

In case the court is willing to entertain the defendants response to the initial motion, Plaintiff replies as follows:

As noted in Defendants' Opposition, the court retains the inherent power to reconsider an earlier ruling at any time prior to the entry of final judgment.

According to *Cho v. State,* 115 Haw. 373, 384, 168, P.3d 17, 28 (2007), "it is axiomatic that the trial courts retain inherent authority to revise interim or interlocutory orders any time before entry of judgment. See *Abada v. Charles Schwab & Co.*, 127 F. Supp. 2d 1101, 1102 (S.D. Cal. 2000). Interlocutory orders and rulings made pre-trial may be considered and reversed for any reason the trial judge deems sufficient, even in the absence of new evidence or an intervening change in or clarification of controlling law at any time prior to final judgment when the initial order was clearly erroneous or would work manifest injustice."

The Court in *Cho* also stated, "We agree with the State to the extent that the trial court has inherent power to reconsider interlocutory orders. See, e.g., *Fayetteville Investors v. Commercial Builders, Inc.*, 936 F.2d 1462, 1469 (4th Cir.1991) ("An interlocutory order is subject to reconsideration at any time prior to the entry of a final judgment."); b); "[r]ather, the motion must be considered to be directed to the court's Peterson v. Lindner, 765 F.2d 698, 704 (7th Cir.1985) (motions for reconsideration of interlocutory order cannot be properly characterized as a motion under FRCP Rule 60(inherent power to modify or rescind interlocutory orders prior to final judgment") (citation omitted). "Of course, if the order [is] interlocutory, [the trial court] ha[s] the power to reconsider

it at any time before final judgment." Id. (citation omitted). *Cho v. State*, 115 Haw. 373, 384, 168 P.3d 17, 28 (2007).

Moreover, Hawaii law is clear that, "The trial court's ruling on a motion for reconsideration is reviewed under the **abuse of discretion standard**." *Ass'n of Apartment Owners of Wailea Elua v. Wailea Resort Co.*, 100 Hawai'i 97, 110, 58 P.3d 608, 621 (2002) (citation omitted). An abuse of discretion occurs if the trial court has "**clearly exceeded the bounds of reason or disregarded rules or principles of law or practice to the substantial detriment of a party litigant.**" *Amfac, Inc. v. Waikiki Beachcomber Inv. Co.*, 74 Haw. 85, 114, 839 P.2d 10, 26 (1992).

The moving party asserts both clear error and manifest injustice occurred in this instance. This is not an attempt to simply "relitigate" the matters presented at the hearing on the original motion. Instead, it is a request for reconsideration based on the principals of new facts, new law, clear error and manifest injustice:

1.Plaintiff has shown that indeed current action <u>was a properly filed agency appeal</u>. During the October 12, 2011 hearing Defendants claimed that her pleadings do not constitute agency appeal and that appeal would not be proper under the circumstances. there is absolute zero substance behind this statement. In her motion Taitz stated, that after the hearing together with Channel 8 reporter and another witness she walked to the Health Department and inquired, whether the

Health Department has any specific forms and procedures necessary for the agency hearing. Nobody in the health department had any such forms and procedures. Attorney for the defendant simply lied, simply made up an argument, that request for inspection of Obama's birth certificate , which was filed by Taitz and which was denied by registrar Onaka, was not an "agency hearing", that is typically done by the Health Department, and therefore current complaint represents proper appeal. Defendants did not provide a grain of evidence to show, that there was any specific requirement for agency appeal, that had to be satisfied and that was not satisfied by Taitz. as such, this was a completely bogus argument. as such Plaintiff requests to reverse decision by this court, that current action does not represent an agency appeal. Not reversing this ruling would go against clear evidence of fact and would represent abuse of judicial discretion.

2. After October 12 hearing in this case, on October 17, 2011, Taitz received an adverse ruling in Taitz v Ruemmler 11-cv-421 RCL USDC District of Columbia. this ruling was based on finding by presiding judge Lamberth wrote "The President released his long form birth certificate on April 27, 2011 and posted a copy on White House web site. The certificate confirms Presidents' birth in Honolulu, HI. See Michael D. Sheer "With Document, Obama Seeks to end "Birther" issue ".The New York Times, Apr. 28, 2011, at A1." This was a freedom of information case, where the Plaintiff Taitz was seeking to inspect the alleged certified copies of Obama's 1961 long form birth certificate, which were shown to the media and to the nation by former White House counsel Robert Bauer. Taitz was adversely affected by this ruling, she lost that legal challenge and shortly after above ruling on November 9, 2011 she filed an emergency petition for agency hearing. this petition was served on the Director of Health Fuddy, registrar Onaka and Deputy Attorney general Nagamine. Taitz was seeking to examine the original document in light of the alleged certified copy, which was introduced by reference in the case by the presiding judge, federal judge Royce Lamberth, and which was part of his

final ruling. **DEMAND FOR EMERGENCY AGENCY HEARING REGARDING REQUEST FOR INSPECTION OF THE ORIGINAL RECORD IN CUSTODY OF THE DIRECTOR OF HEALTH IN LIEU OF THE ALLEGED CERTIFIED COPY INTRODUCED BY CHIEF JUDGE OF THE U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA ROYCE C. LAMBERTH IN A CONTESTED HEARING IN TAITZ V RUEMMLER 11-CV-421 RCL USDC DISTRICT OF COLUMBIA**

Dear Director Fuddy, Registrar Onaka, Deputy Atorney General Nagamine. Petitioner herein is requesting an emergency agency hearing in the department of Health of the State of Hawai'i on her request for inspection of the original 1961 long form birth certificate of Barack Hussein Obama, II, in lieu of an alleged copy of the above document, which was introduced sua sponte by federal judge Royce C. Lamberth in a contested hearing in the matter of Taitz v Ruemmler, filed by the petitioner Dr. Orly Taitz, ESQ against White House Counsel Kathy Ruemmler.

Recently, Judge Royce Lamberth of the USDC District of Columbia issued an order in Taitz v Ruemmler 11-cv-421 RCL USDC DC where he stated "The President released his long form birth certificate on April 27, 2011, and posted a copy on the White House Web site. The certificate confirms the President's birth in Honolulu Hawaii. See Michel D. Sheer, "With Document, Obama seeks to end "Birther issue", The new York Times, Apr 28, 2011, at A1"(Exhibit 12 order by Judge Lamberth).

Previously Petitioner herein provided director Fuddy, Registrar Onaka and Deputy Attorney General Nagamine with expert affidavits, showing, that alleged true and correct copy of Obama's certified 1961 long form birth certificate represents a computer generated forgery and not a copy of an original 1961 document. Evidence rules of the state of Hawaii are similar to Federal rules of Evidence.

State of Hawai'i Title 8, statute 91-10(2) states "Documentary evidence may be received in the form of copies of excerpts, **if the original is not readily available**, provided that upon request parties shall be given an opportunity to compare with the original." Original, referred to in this petition, is readily available and is kept in the department of Health of Hawai'i.

Federal Rule of Evidence 1002 states that "[t]o prove the content of a writing, recording or photograph, **the original** writing, recording, or photograph is required, except as otherwise provided in these rules or by Act of Congress." With regard to duplicates and public or official records, the rules state in pertinent part as follows:

A "duplicate" is a counterpart produced by the same impression as the original,... or by mechanical or electronic re-recording,... or by other equivalent techniques which accurately reproduce the original. Federal Rule of Evidence 1001(4).

A duplicate is admissible to the same extent as an original unless **(l) a genuine question is raised as to the authenticity of the original or (2) in the circumstances it would be unfair to admit the duplicate in lieu of the original. Federal Rule of Evidence 1003. (emphasis added)**

Petitioner is not requesting disclosure of any information, which was not previously disclosed . Petitioner is requesting inspection of the original document

in lieu of the alleged certified copy , which was provided by Mr. Obama to the public and which was used by Judge Lamberth in his opinion in a contested case, heard in the U.S. District court for the District of Columbia, and in light of multiple affidavits of experts, previously provided to the agency, which deem the alleged copy to be a computer generated forgery.

Petitioner is requesting such hearing on an emergency basis, as it pertains to legitimacy of the U.S. presidency and in light of the fact, that 2012 Presidential primary is on the way. Exhibit 1

Recently Taitz received a letter from Nagamine, which was dated November 16, 2011, where Nagamine stated "Your request for an agency hearing is denied ". not only the request for an agency hearing was denied, Nagamine threatened Taitz, wrongly calling Taitz's petition frivolous and tried to harass and intimidate Taitz with sanctions and attorneys' fees, which shows an unprcedented level of arrogance and malice on part of Nagamine. Exhibit 2. At any rate, Taitz provided **new evidence**, which shows that the action filed with this court is indeed an agency appeal, Taitz is entitled to a hearing on the merits, motion for summary judgment was improper, filed in bad faith and prior ruling needs to be reversed. Clearly, it shows, that current motion for reconsideration is not frivolous, but properly justified based on new evidence, new facts, previously not available.

2. Conflict of Interest

In her amended motion for reconsideration Taitz provided information, showing that Deputy attorney Nagamine has personal/ family ties to the family of Barack Obama, who is the subject of this complaint. Taitz provided evidence that based on reports Nagamine's husband, Todao Nagamine is a family attorney for Obama family and he handled Mr. Obama's sister's divorce from her first husband. It appears Deputy attorney General Nagamine, who represents the defendants, is acting based on her family ties to Obama and is engaged in aiding and abetting forgery and uttering of forged birth certificate of Obama and in the most egregious elections fraud, ever to occur in the history of this nation. In her opposition Nagamine had an opportunity to oppose this argument with specific facts. She could provide a sworn affidavit from her and her husband, that they do not have ties to Obama family and that her husband did not act as a family attorney for Obama-Soetoro family and did not handle Obama's sister's divorce. Nagamine never provided any opposition to the facts and the Plaintiff requests this court to rule, that the Deputy Attorney General of Hawaii has personal family ties to Obama, that there is a clear conflict of interest and her motion for summary judgment was filed improperly with conflict of interest. Nagamine was supposed to act for the benefit of the people of Hawaii, not as a personal criminal defense attorney for Obama. Not to acknowledge this fact would show **manifest injustice and an abuse of judicial discretion,** which is a clear basis and justification for the motion for reconsideration at hand.

3. Reconsideration is justified as Nagamine has made up a statute for document authentication, which does not exist and goes against any rule of evidence within the statutes of the state of

Hawaii, Federal Rules of Evidence, best evidence rule any evidence rules of the civilized society. She stated: "...I have this record here, was Barack Hussein Obama, II here born in Hawaii? And the answer, the verification would be yes. Or: Do you have a record? Yes. Verification is not somebody coming in and going through ancient records that are held in the vault of the department of Health. Verification is yes or no, do you have it, don't you have it. That all it is" (Court Reporter transcript, October 12, 2011 hearing in Taitz v Fuddy, Onaka."

Taitz was shocked to hear that such an insanity can actually be a statute in the code of the state of Hawaii. After the hearing she researched and never found a statute claimed to exist by Nagamine. In her motion for reconsideration Taitz correctly noted that the order issued by this court was based on error of law and fact and based on a fraudulent statement by the attorney for the defendants and that the reversal of prior ruling in necessary in order to avert manifest injustice.

In her opposition Nagamine could provide a specific statute within the code of the state of Hawaii, which would confirm her allegation. Nagamine never provided any statute, that would confirm her allegations. As such Taitz requests to reverse prior ruling on October 12, 2011 hearing due to the fact, that the Deputy Attorney General of Hawaii Nagamine made up a statute that does not exist and which goes against the rules of evidence and rules of document authentication of the state of Hawaii, federal rules of evidence and best evidence rule, and which was the basis of the erroneous ruling. Reversing this order is necessary to prevent manifest injustice. Moreover, Nagamine should be severely punished by this court for making up a statute, that does not exist.

Additionally, if this court does not reverse this order and does not allow Taitz and her document experts to examine the original document allegedly on file, the consequences of this ruling will be devastating for the state of Hawaii as a whole. Today the state of Hawaii enjoys the full faith and credit by 49 other states, as well as faith and credit by the federal government and private individuals . This happens because other states know, that the state of Hawaii has the same or similar rules of evidence and document authentication and verification as other 49 states which are similar to universal best evidence rule and that an original is provided in lieu of an alleged certified copy, for purpose of authentication and verification, particularly in light of evidence of forgery, which is universally practiced in civilized societies. What Nagamine argued, represents not a form of document authentication and verification, which is described in title8, rule 91-10(2) of Hawaii HRS, and which is common practice in 49 other states, but rather same amalgam of insanity, stupidity and a mob rule, made up by Nagamine.

What Nagamine argued during November 12 hearing amounts to a rule, where a corrupt governmental official of the state of Hawaii can release a forgery to the public, and when the public or parties, detrimentally affected by this forgery or civil rights attorney are seeking to see the original in lieu of the alleged certified copy, the same corrupt official, who released the forgery in the first place, gets to do authentication and verification, by just saying yes or no. Nobody is allowed to see the original in the vault. <u>If that is the case, why does the state of Hawaii even have vaults with documents? How do we know, there is anything in the vault?</u> If this ruling stands, the other 49 states, other nations, federal government and public at large will know that no document coming from the state of Hawaii can be trusted, can be relied upon, as Hawaii does not do authentication of documents, that Hawaii has some type of La Cosa Nostra

rule, where anything some godfather corrupt official says, is the rule, without anyone seeing any original documents. The state of Hawaii will be a pariah in the civilized society, as no state, no nation, no individual will accept any document, any piece of paper coming from the state of Hawaii. It will be a common knowledge, that Hawaii has no law, no document authentication, only mob rule. Clearly, no state and the federal government and people of this nation will accept as true an alleged copy of Obama's long form birth certificate as it was never authenticated, as the only thing we can conclude, is that there is no genuine 1961 original long form birth certificate for Barack Hussein Obama, II in the vault of the health department of the state of Hawaii.

4. Defendants excuse of use of Statute 338 HRS is not justified. HRS 338 relates only to disclosure of documents, which are kept private for the benefit of individuals. The intent of the legislature is clear. Confidantiality exists for the benefit of the individuals, who want their birth information to be kept private. For example, a person who was born illegitimate, would want this information kept private. In case at hand Obamaspecifically consented to release of the information and did this in his letter to defendant Fuddy, which he made public. information was already published and not disclosure of private information is requested. Taitz requested only examination of the original for authentication and verification in lieu of of the alleged certified copy in light of sworn expert affidavits deeming the alleged copy to be a computer generated forgery.

Defendants did not provide a shred of evidence, which would justify reliance on HRS 338 as an excuse to violate UIPA (Unified Information Practices Act) and refuse authentication of the

document in question. Defendants argument, that Taitz is supposed to provide justification for use of UIPA is misguided. Transparency in government is presumed. Inspection of a document in lieu of the alleged copy is obligatory based on UIPA and based on HRS 91-10(2), best evidence rule and FRE, as the evidence in question relates to a case brought in federal court and relates to eligibility in a federal election. Defendants are the ones, who have to provide a justification, why they are allowed to violate UIPA and why are they allowed to refuse authentication. They used an excuse of privacy under HRS 338, which is not relevant after Obama's release of the document in question. As such reconsideration was properly requested and should be granted as there was an error of law and of interpretation of law. Not revering such ruling will constitute abuse of judicial discretion and manifest injustice.

4. In her amended moption for reconsideration Taitz provided the court with the new information, the fact, that challenge to Obama as a candidate on the ballot, was filed in the state of NH. 9 state represntatives have joined this challenge and are demanding that the Secretary of state reomve Obama from the ballot as ineligible candidate in light of the evidence that he is a foreign citizen from birth and until now, bwing a citizen of Great Britain, Kenya and Indonesia, does not have any valid identification documents to proof his US citizenshiip, using CT Social Security number 042-68-xxxx, which was never assigned to him according to E-Verify and SSNVS and he is using a birth certificate, which cannot be authenticated, due to the fact that officials of the state of Hawaii are refusing examination of the document in question and there is no proof, that the document in question even exists. Exhibit 3 Signed complaints by nine state representatives of the state of New Hampshire. This represents new fact, that justifies motion for reconsideration and justifies this court granting such motion. this fact, shows that thei nation cannot conduct a lwful election. New Hampshire is a state of the very fuirst primary and the whole nation is waiting for your Honort to follow your oath of office to protect and defend the Constitution of the state ogf Hawaii and the United State and particularly Article 2, Sction 1, Natural Born citizen clause.

additionally, Obama made this issue personal. In response to legitimatte challenge in Nh, Obama is Juliana Smoot, his deputy campaign manager to personally attack plaintiff herein Taitz and State Representatives , who have the integrity of character to stand up and uphold

their oath of office. Using proxes he subjects Taitz to attacks, ridicule and persecutions. Recently she was subject to multiple attacks by media thugs and street thugs, her car was tampered with, her mail boxes were vandalized, her computers, e-mail boxes, web sites were hacked and vandalized repeatedly, her whole family was subjected to attacks..

RELEASE THE MUGS

By Julianna Smoot, Deputy Campaign Manager on November 19, 2011

Yesterday, four Republicans in the New Hampshire State House allowed a hearing requested by Orly Taitz, the notorious dentist-lawyer-birther who wants President Obama officially removed from the state's primary ballot.

So in honor of conspiracy theorists everywhere, we're re-releasing the campaign's limited-edition "Made in the USA" mugs.

There's clearly nothing we can do to satisfy this crowd—or anyone else who insists on wasting time and energy on nonsense like this.

But when it starts to make your head hurt, I've found the best remedy is to have some tea in my "Made in the USA" mug.

Works like a charm. I recommend Earl Grey.

http://www.barackobama.com/news/entry/release-the-mugs

5. Lastly, opposition filed on behalf of the defendants represents a form of intimidation, harassment, voter intimidation and intimidation of a civil rights attorney and federal whistle blower, who is exposing corruption and criminality in the highest positions of power. Defendants are claiming that the motion for consideration and entire claim frivolous. Taitz provided clear justification of the complaint and her motion for reconsideration.

Calling request for authentication of a document of one running for the position of the U.S. president, clearly does not represent a frivolous argument. It is a a reasonable request and it is the most important matter of the national security. Denying such request is frivolous. the fact that defense even suggest that this is a frivolous argument, suggests a breathtaking level of corruption of the officials, who find it frivolous to seek authentication of a vital record, in light f an alleged certified copy, which is found to be a forgery by experts.

A copy of these pleadings and transcript of October 12, 2011 hearing is being forwarded to Congressman Harper, the chair of House Sub- Commission on elections, Congressman Lamar Smith, Chair of the U.S. House Commission on the Judiciary and congressman Darrel Issa, Chairman of the U.S. House Oversight Commission, as well as FEC, Inspector General of the Department of justice, equal rights Commission, as well as commission InterAmerican Commission for Human rights and the Human rights Defenders Commission of the United Nations.

If October 12, 2011 ruling is not reversed, most basic human right of American citizens to vote in a lawful election, as well as the constitutional right for meaningful redress of grievances free from fraud and forgery will be violated under a color of authority.

Conclusion

1.Defendants never responded to the Amended motion for rehearing(reconsideration) and as such amended motion should be deemed unopposed and granted and inspection of the document in question, Barack Hussein Obama's 1961 long form birth certificate on file in the Health Department of the state of Hawaii should be granted to the Plaintiff Dr. Orly Taitz and her forensic Document experts.

2. Plaintiff requests the court to reverse its' prior decision, as it was based on misrepresentation by the defendants, as well as fraud by the defendants' attorney, Deputy Attorney General Nagamine, when during October 12, 2011 hearing she made up a law that does not exist and that is diametrally opposite of the laws of evidence of the state of HI, of the beast evidence rule and the Federal rules of evidence. Defendants did not provide any legal basis why this court should flagrantly violate HI statute 91-10(2), best evidence rule and federal rules of

evidence in relation to a document crucial in federal Presidential election and refuse inspection of the original in lieu of a certified copy and in light of the sworn affidavits showing such copy to be a forgery. Plaintiff met her burden of the standard of showing that original decision of the court was based on misrepresentation, fraud, that new evidence was provided which justifies reversing of the decision in question.

3. Plaintiff demands severe sanctions against the defendants and their attorneys for engaging in obstruction of justice in relation to an important document, crucial in Presidential election, due to complicity to commit reported forgery of such document, uttering of a forged document, elections fraud and of a flagrant pattern of harassment and intimidation of Taitz, who is a voter and a civil rights attorney, who is exposing criminality of the defendants and their attorneys; for violation of all of U.S. citizens rights for redress of grievances and citizens voting rights done under the color of authority.

Respectfully submitted, Dr. Orly Taitz, Esq.

November 23, 2011

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Dr. Orly Taitz, Esq.

I. Lila Dubert, am not a party to above captioned action, attest, that I served the defendants on November 25, 2011 by certified mail through their attorney
Jill Nagamine,
Deputy Attorney General Jill Nagamine at 465 South King str., Room 200, Honolulu, HI 96813-2913

Signed

Dated