

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

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***Pamela Barnett, Alan Keyes et al.,***

**Plaintiffs-Appellants,**

**vs.**

**Barack Obama, et al.,**

**Defendant-Appellee.**

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**Petition for Rehearing En Banc**

***Cases 09-56827 and 10-55084***

***Submitted on behalf of all 40 Plaintiffs in Barnett et al v Obama et al 10-55084  
Attorney Taitz represents all plaintiffs in 10-55084 Barnett, Keyes et al v Obama  
et al.***

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An *en banc* rehearing is allowed in cases of great importance. Indeed, at the hearing of this matter on May 2, 2011, Justice Berzon, stated that the issue raised in the case was an important Constitutional issue that needed to be resolved. The case at hand qualifies for rehearing *en banc* due to the fact that it revolves around the issue of Barack Hussein Obama's (hereinafter Obama) lack of eligibility for the US Presidency in light of his foreign citizenship and allegiance since birth and his use of invalid identification papers as a basis for his Natural Born citizen status.

Such invalid documentation involves Obama's use of a Connecticut Social Security number xxx-xx-4425, which was never issued to him according to e-verify and SSNVS and his use of an alleged long form birth certificate, which was shown to be a forgery, according to multiple experts. This case is akin to *Roe v. Wade*, 410 U.S. 113 (1973), as it is a case which presents itself repeatedly but evades adjudication on the merits.

Panel erred in following areas, which justifies rehearing *En Banc* and reversing the opinion:

1. The Court erred in its assessment of the case by concluding that the Plaintiffs were seeking to remove defendant from office. Plaintiffs were seeking declaratory relief. The plaintiffs did not specifically seek removal of

defendant Obama from office. Declaratory relief was sought, which was within the purview of the court. The court misstated the relief sought and thus wrongly concluded the case presented is a non-justiciable political question, which it is not.

2. The court erred in claiming that the case was filed too late.

3. The court erred in disregarding the fact that counsel on the case, Orly Taitz, filed two legal actions against the secretary of state of CA, Debra Bowen, seeking a Writ of Mandamus directing Secretary of State to vet Obama and, due to evidence of him not being eligible, to de-certify election. Those actions were filed on behalf of several of the plaintiffs in current case. One of the actions, *Keyes et al v. Bowen*, was filed in the Superior court of CA. A second action, *Lightfoot v. Bowen*, was filed directly in the Supreme Court of CA for an emergency extraordinary stay. It was denied with a one word ruling: “denied”.

Taitz made an extraordinary effort in traveling to Washington DC and filing a Petition for Stay with the Supreme Court of the United States, which was filed minutes before closing of the court at 4:40 pm on Friday, December 12, 2008, and right before the electoral college meeting scheduled for Monday, December 15, 2009. Supreme Court conferences on the case were scheduled

for January 23, 2009, when the petition for stay was denied without explanation.

As such, the cases were filed timely and this case was filed after plaintiffs could not obtain any redress of grievances against the Secretary of State. Moreover, the court of Appeals ruled that the case of *Keyes v. Bowen* was filed *too early* as Obama was not confirmed by Congress yet, was not inaugurated yet, and there were still Constitutional provisions allowing to remove him or find him ineligible.

There is a clear conflict between decisions of different courts and the public at large comes to the realization that the citizens simply lost their Constitutional right for redress of grievances, that elections are predetermined and that the Courts are simply used to provide excuses: before an inauguration it is too early, after an inauguration it is too late!

The Plaintiffs were between a rock and a hard place. If the plaintiffs were to file a legal action without sufficient investigation, they would have been subject to sanctions under Rule 11. As plaintiffs did sufficient investigation, they are told that they filed too late.

4. The Court erred in ruling that plaintiffs lose standing in an elections fraud complaint filed after inauguration. This decision is not based on any law or precedents and defies basic logic. The court is saying that because the election is over the candidates for office are no longer candidates and cannot sue for fraud committed.

Let's imagine a hypothetical situation. If one sells a house to a buyer by the name of Barack Obama and signs a deed, relying on a check tendered by the buyer, and later discovers the check to be forged, does it mean that he no longer has a recourse and a right for redress of grievances because he is no longer a homeowner? Of course not. How then, it is suddenly too late to prosecute fraud committed getting a "deed" or a four year lease of the White House? In the case at hand the court is telling a former U.N Ambassador and Presidential candidate from the American Independent party that even if it is found that Obama committed elections fraud in order to get elected, and even if he used a forged birth certificate and a stolen social security number, Ambassador Keyes has no recourse as he is no longer a candidate, the election is over and it does not matter whether fraud was committed. There is no law or precedent to justify such holding.

It defies the most basic rules of logic.

Moreover, even Judge Berzon herself did not believe that this decision made any sense and repeatedly asked the attorney for the Defendant, "What if fraud is uncovered after the election?"

Fraud is a tort and subject to a two year statute of limitations after the tort is discovered. The ruling was clearly erroneous.

5. The Court erred in not addressing undue influence on the Federal judge by the Defendant and his attorneys.

6. The Court erred in completely disregarding financial damages to Plaintiff Presidential candidate Keyes, who also ran against Obama for US senate in 2004. Keyes and Obama were top finishers in the senatorial election. If it is found that Obama indeed committed fraud, than Keyes has unique damages in the form of salary and lifetime benefits of a U.S. Senator. The Court improperly shielded Obama from any discovery and denied Ambassador Keyes any meaningful redress of grievances and restitution. Even if the Court finds no standing in regards to other plaintiffs, the court should find unique standing as it relates to Ambassador Keyes and allowed him to proceed with discovery and declaratory relief. If it is found that Obama does not possess valid identification

papers, that indeed he is using a stolen Social Security number and a forged birth certificate, he not only was not eligible to be the President, he was never eligible to be a U.S. Senator and Ambassador Keyes should be able to collect damages from Obama.

7. The Court erred in not considering the fact that the plaintiffs and their attorney were defrauded by the federal judge who pressured the plaintiffs' attorney to agree not to file an interlocutory appeal for default judgment, while promising on the record, that the case will be heard on the merits. Later Judge Carter refused to hear the case on the merits.

8. The Court erred in not considering the fact, that an attorney for the defense firm was placed as an attorney law clerk for the presiding judge. This showed lack of impartiality by the Court.

10. Court erred in not considering the precedent of *State ex rel. Sathre v. Moodie* (N.D. 1935) 65 N.D. 340, 258 N.W. 558, in which the court held that the sitting Governor's failure to have lived in the state for the required five years prior to the election served as a "legal disability" preventing him from holding the office. The court stated, "When the framers of the Constitution

used the language which we are here considering, they intended to include legal as well as physical or mental disabilities, and did not exclude disabilities existing prior to election.”

Plaintiffs urge the Court to hear the case *en banc* and rule that the court erred in dismissing the case at hand due to lack of jurisdiction.

For all of these reasons, plaintiffs request the Court allow an en banc review.

Respectfully submitted,

/s/ Dr. Orly Taitz, Esq.

Attorney for 40 Plaintiffs in

Barnett, Keyes et al v Obama et al