



2. Plaintiffs argued that there was no adjudication of causes of action for: Fraud, Breach of Fiduciary Duty and Negligence. Plaintiffs sought a leave of court to file a second amended complaint on those three causes of action.

~~3. Plaintiffs also argued that the Agency Appeal was not adjudicated with prejudice as the issues of the appeal were not heard on the merits and the Plaintiffs intent to bring the same agency challenge during the general election and erroneous dismissal with prejudice will be confusing and will impede further determination on the merits.~~

4. Defense in their opposition conceded that the causes of action for Fraud, Breach of Fiduciary Duty and negligence were not adjudicated on the merits.

5. The Court agreed to grant Plaintiffs leave of court to file a Second Amended Complaint fo Fraud, Breach of Fiduciary Duty and Negligence.

~~6. Defendants conceded that the merits of legitimacy and eligibility of Barack Obama were no heard on the merits and that the dismissal is indeed due to lack of the agency record.~~

7. The Court clarified that the Agency Appeal was dismissed due to lack of jurisdiction, as th court did not have an agency record and therefore was without jurisdiction to hear th Agency Appeal.

~~8. The agency appeal was not heard on the merits.~~

9. As a result, Plaintiffs ~~must be~~ granted a leave of court to file an amended complaint wit causes of action of Fraud, Breach of Fiduciary Duty and Negligence.

IT IS THEREFORE ORDERED that the ~~cause of action of Agency Appeal~~ <sup>prior ORDER of Dism</sup> ~~is~~ dismissed due to lack of jurisdiction by the court, due to lack of the Agency record. <sup>is</sup> Plaintiffs are granted a leave of court to file an amended complaint with causes of action

