

1. Defendant misled the court and misrepresented to the court state requirements for the agency appeal.
2. Defendant's attorney provided to the courts rules of evidence and document verification and authentication, which cannot be found anywhere in the Rules of Evidence of the state of Hawai'i and it appears that the attorney for the defendant made up the rules of evidence, that do not exist, for which she should be sanctioned.
3. Defendant's attorney might have been acting in her personal interest and not in the interest of the state of Hawai'i and not in the interest of the people of the state of Hawai'i.
4. Defendant's attorney submitted by reference a document, which she did not produce.
5. Defendant improperly argued a defense of privacy of records, which were already released and privacy could not be asserted on the document, that is in public domain, no longer private, was introduced by reference in legal proceedings, and verification and authentication in lieu of the certified copy is demanded, in light of multiple reports deeming the document in question a computer generated forgery.

MEMORANDUM OF POINTS AND AUTHORITIES

1. During the hearing Dr. Orly Taitz, ESQ, Plaintiff herein, argued that in the caption of the case, as submitted, the Plaintiff wrote "Agency Appeal" and asked to review the case as agency pursuant to Agency Appeal rules.

Taitz reiterated to the court at the hearing that she requested access to the original documents contained in the Health Department of the state of Hawaii, as certified copy of such document was introduced by reference by the U.S. attorney at a hearing in the 9th Circuit Court of Appeals in case Barnett, Keyes et al v Obama et al, where Plaintiff herein represents 40 Plaintiffs.

According to State of Hawaii Title 8, Statute 91-10(2):

"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 the copy with the original."

Defendant argued that current case should not be considered as agency appeal, as there was no prior hearing.

Taitz argued that there was an agency hearing and the requirement for the agency review were satisfied prior to filing of this case.

§91-14 Judicial review of contested cases. (a)Any person aggrieved by a final decision and order in a contested case or by a preliminary ruling of the nature that deferral of review pending entry of a subsequent final decision would

deprive appellant of adequate relieve is entitled to judicial review' (emphasis added)

Plaintiff argued, that the word "hearing" as relates to the 92(F)UIPA or any other Freedom of information cases around the nation in the state and federal courts typically means "review by the agency".

On May 4, 2011, Taitz submitted to the Health department request for access to the original document in lieu of the alleged certified copy of the original submitted by the opposing attorney in a case of national importance in the 9th Circuit Court of Appeals, which is a controlling court of Appeals for the state of Hawaii.

Taitz received a response from Alvin T. Onaka, registrar of the Department of Health, where Mr. Onaka stated, that he is responding on his behalf and behalf of the Director of Health Loretta Fuddy and denied the request.

Taitz submitted a request for an agency administrative appeal and did not receive a response from either Onaka or Fuddy for a period of two months. As such Taitz exhausted all means of "hearing" of the issue and properly filed this Agency Appeal.

As the defense claimed, that there was no hearing, right after the October 12, 2011 motion hearing in front of Your Honor, Taitz together with two witnesses,

one of whom is a Channel 8 reporter, walked to the Health Department in order to verify the issue of the "hearing". Taitz asked an employee on duty for a form for an agency hearing. Employee called a number of officials within the department. Nobody ever heard of any specific forms for an agency hearings and nobody heard of any specific procedure for an agency "hearing".

Plaintiff submits, that the issue of a hearing is simply a made up issue. There are no specific hearings held and the Health Department routinely treats requests for information and access to records as requests for agency review or agency hearing.

Taitz believes that the defendants are simply playing with semantics and are de facto engaged in obstruction of justice, as they know or suspect, that the alleged certified copy of Mr. Obama's birth certificate is indeed a computer generated forgery and they are making up excuses in this criminal cover up of this forgery. Taitz urges this court not to be complicit in this criminal cover up and adjudicate that the meaning of "Agency Hearing" in the sense of 92(F) UIPA (Unified Information Practices Act) is indeed "agency review", which was done as a prerequisite to the hearing in the circuit court.

Taitz submits to this court that Deputy Attorney General Nagamine intentionally and maliciously misrepresented the requirements for Judicial review of the

agency decision. May 19, 2011 Letter from Alvin Onaka to Taitz, denying her request for review of records indeed was an **agency decision**, which entitled Taitz to a judicial review according to §91-14.

2. Deputy Attorney General Nagamine possibly had a conflict of interest.

Taitz received information, that Ms. Nagamine's husband is a family law and divorce attorney who served as a family attorney for Obama family and handled the divorce for Mr. Obama's sister. Mr. Obama is a person of interest in this case. Deputy Attorney General of the state of Hawaii is expected to act in the interest of the state of Hawaii. In this case she is required to act to provide the people of the United States of America integrity and integrity of records, that were used in a national election in 2008 and might be used in 2012. Taitz wrote to Ms. Nagamine, asking her to confirm or deny personal connection through her husband to Obama family. Taitz raised this issue during the hearing. Nagamine never denied connection to Obama family. Taitz submits to this court, that if indeed Mr. Nagamine served as a family attorney for Obama family, there was a conflict of interest and Deputy Attorney general Nagamine should have recused herself as an attorney for the defendant, as her actions could have been tainted and biased.

Due to the above Taitz requests a rehearing with a different attorney representing the defendant or in alternative Taitz requests to strike the motion to dismiss in its' entirety .

3. During the hearing on October 12, 2011 Deputy Attorney Nagamine argued to the court, that in the state of Hawaii agency verification of records consists of a one word response "yes' or "no", meaning yes on file or no, not on file. She claimed that verification of the alleged certified copy of Mr. Obama's birth certificate consisted of the same official, who released the alleged certified copy, deemed to be a forgery by multiple experts, director of Health Loretta Fuddy, responding to the Plaintiff by saying "yes", and that is a verification and authentication of records in the state of Hawaii.

Plaintiff challenged the Defendant to quote a statute, that provides such "verification and authentication" of records.

Plaintiff is requesting this court to order Defendants' attorney, Deputy Attorney General of Hawaii Nagamine, to provide a quotation of a statute, that provides for such one word "verification and authentication" , and if no such statute exists, sanction Nagamine for making up non-existent statutes and making a mockery of rules of evidence in the state of Hawaii and making the State of Hawaii a laughing

stock in the eyes of the legal community and jurisprudence around the country and around the world.

4. Taitz submitted an official request for the court reporter transcripts and asked for a call back with the quote of the fee of the transcripts. She did not receive such call back, she did not receive such fee and did not receive the transcript. Taitz is asking for an order of the court for the court reporter to provide her with the quote of the fee for the transcripts and provide the transcript upon tender of the fee.

5. October 12, 2011 hearing was recorded by FOX-KHON2 network and repeatedly shown in prime time news in Hawai'i. Though the official transcript is not available yet, the TV report shows the defendants' attorney stating during the hearing "I have a document here". "If you were to ask if Barack Hussein Obama the II was born in Hawaii, the answer will be yes". So, yet again, in the court of law, in the Circuit Court of the State of Hawaii the Defendant is referring to the long form birth certificate of Mr. Obama, which is allegedly kept in the bound book of birth records in the Health Department in Hawaii. As Nagamine referred to this document in the court hearing, this provided the Plaintiff herein yet again, for the second time, with the right to demand the original record for verification and authentication of the claim made by Nagamine according to §91-10(2) HRS.

As such, Taitz request this court to order the defendant to allow the Plaintiff and her forensic document experts to inspect for authenticity the original long form birth certificate, to which Nagamine referred to in the court of law. If such order is not granted, than this court becomes criminally complicit together with the Director of Health Fuddy, Registrar Onaka, Deputy Attorney General Nagamine, Health Department and the office of Attorney General of the state of Hawai'i in defrauding the People of the United States of America, in obstruction of Justice, in aiding and abetting forgery, uttering of forged documents, aiding and abetting felony and misprision of felony.

6. Defendants improperly asserted a defense of privacy to deny authentication of the alleged certified copy of the original document in clear violation of Hawaii Rules of evidence Article 10, Rule 1002, Tile 8, §91-10(2)b and best evidence rule. Plaintiff never asked for any confidential records and never asked to disclose anything. She only asked for authentication of the document, submitted by reference by the opposing attorney in the 9th circuit court of Appeals as well as during proceedings in this court on October 12, 2011 by Deputy Attorney General Nagamine. The Department of Health and now this court are obligated to allow her to conduct authentication and verification of the original in lieu of the alleged

certified copy pursuant to Article X, Rule 1002 of the Rules of evidence of the state of Hawai'i, Title8, §91-10(2) HRS and Best Evidence Rule.

CONCLUSION

Attorney for the defendants possibly acted in personal interests and in conflict of interests in handling this case. Defendants **misrepresented** to the court requirements for the judicial review of the agency decision required for agency appeal. Defendants' attorney argued rules of authentication and verification of records in the state of Hawaii that go against any sane rules of evidence **and go against** the specific requirements of rules of evidence in §92-10(2) of Hawaii Revised Statutes, Article X, Rule 1002 of Hawai'i Rules of Evidence and Best Evidence Rule.

Such misrepresentation by the Defendants' attorneys prejudiced the court and tainted the order. As such Plaintiff is respectfully requesting to:

1. Stay the final order in the above captioned case.
2. Rule that the Plaintiff satisfied the requirements of statute §91-14 for judicial review of the contested case in light of the May 19, 2011 letter from defendant Onaka's decision to refuse request for inspection of records. In the alternative Plaintiff is asking this court to order the defendant to show specific statutes and

rules, which require the Plaintiff to take any other steps before instituting a judicial review of the agency actions.

3. Order the defendant to provide the court with a specific citation of the "yes" or "no" one word agency verification and authentication of records statutes claimed by the Defendants. **In case, such statutes does not exist, Plaintiffs are requesting this court to reverse October 12, 2011 ruling and rule in favor of the Plaintiff**, as well as sanction the Defendant's attorney **for making up non-existent statutes**, that go against any basic sane rules of evidence and go against §91-10 (2) HRS, Article X, Rule 1002 of the Hawai'i Rules of Evidence and Best Evidence Rule.

4. Order the court reporter to respond to the Plaintiff's request for quote of the court reporter fee and provide the quote of such fee and provide the transcript of the hearing upon tender of the fee by the Plaintiff.

Respectfully submitted,

/s/ Dr. Orly Taitz, ESQ



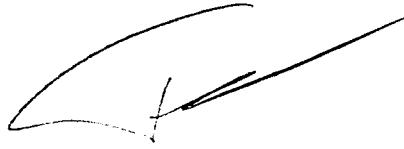
Dated 10.21.2011

CERTIFICATION

Memorandum in support of above motion does not exceed the page limit per rule 7.1 of the Rules of the Circuit Courts of the State of Hawai'i.



/s/ Dr. Orly Taitz, ESQ



I Certify, that I, Lila Dubert, am over 18 years old, not a party to the above case, and that a copy of the above motion was mailed by the first class mail, postage paid, to the defendants' attorney Deputy Attorney General Jill T. Nagamine, at 465 South King Str., Room 200, Honolulu, HI 96813-2913

Dated

10 24 2011

Signed

