CASE G 047746

IN THE FOURTH DISTRICT COURT OF APPEAL

ORLY TAITZ

APPELLANT

V

BARACK OBAMA, DIANE FEINSTEIN, ELIZABETH EMKEN

APPELLEES

SUPPLEMENTAL BRIEF WITH NEWLY DISCOVERED INFORMATION

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I. BACKGROUND AND SUMMARY OF THE CASE

This elections challenge was brought by Dr. Orly Taitz, (hereinafter "Taitz") who was a GOP candidate on the ballot in 2012 election and elector in the state of California. The case has two parts: one part provided the court with sworn affidavits of relational data analysts and admissions of election officials, showing as many as one and a half million invalid voter registrations in the databases, voters who are allegedly 150 years old and 200 years old still voting, while on the other hand eligible voters being prevented from voting according to their sworn and notarized affidavits. Second part of the case provides over 100 pages of sworn affidavits of top law enforcement officials and official records, showing that Barack Hussein Obama, aka Barry Soetoro, aka Barack Hussein Soebarkah committed fraud and ran for the position of the U.S. President and established his eligibility for the position of the U.S. President based on all forged and fraudulently obtained IDs: E-verify and SSNVS records showed that Obama used a CT Social Security number xxx-xx-4425, which was never assigned to him, forged birth certificate, forged Selective Service certificate, last name not legally his and Indonesian citizenship. Not only Obama never had any valid IDs to show him as a natural born citizen, as required based on Article 2, Section1, Clause 5 of the U.S.

Constitution, all of the evidence showed that he never had any IDs to show any citizenship and any legal status for him. While the evidence against Obama and evidence of elections fraud was gradually developed and it evolved during the past 4 years, one thing remained constant: desire of courts to use any and all excuses to cover up elections fraud and cover up Obama's use of forged and stolen IDs. There were multiple challenges filed all over the country by some 45 licensed attorneys and hundreds of pro se litigants. So far not one single case was heard on the merits. Obama consistently refused to comply with any and all subpoenas by all the attorneys and litigants and so far not one single judge held Obama accountable, not one single judge issued an order to compel production of the original wet ink vital records of Obama while all of the copies released to the public were deemed by dozens of experts to be crude laughable forgeries. In general we are seeing a vicious cycle and all three branches of the government not acting as independent branches that are supposed to provide a system of checks and balances. We are seeing reports of FBI and CIA agents and informers working as aids for congressmen, editors of major papers and as staff attorneys and attorney-law clerks for highly positioned judges. This provides an unprecedented level of censorship which was exacerbated by 9/11. This system leaves the U.S. citizens effectively deprived of their First Amendment right for Redress of Grievances, and often elections fraud cases, particularly ones dealing with the usurpation of the U.S.

Presidency by Obama, are being dismissed on technicalities, excuses. There were instances of retaliation by members of the judiciary against members of the U.S. military and civil rights leaders and attorneys seeking to end elections fraud and seeking an adjudication on the merits in relation to Obama's forged IDs. This continued in the Superior court of CA, Orange county division, in the case at hand. As defendants were not responding, Plaintiff Taitz attempted three ex- parte hearings. At the first hearing Judge Sanders requested that Plaintiff serve the defendants again, even though they were already served. Plaintiffs served the defendants again through fax and e-mail as required by Judge Sanders. For the second hearing Judge Sanders did not want to be involved in this hot potato case and she asked Judge Luesebrink to conduct the hearing. It is noteworthy that at the second hearing Judge Luesebrink did not find any deficiency with the service of process. He found it to be sufficient and decided to rule on the merits and stated that the evidence is not sufficient for invalidation of the election results in the ex-parte injunction hearing. As November 7 general election was approaching an being mindful of the statement by Judge Luesebrink that the evidence is not sufficient, Taitz requested yet another emergency hearing and sought a motion to compel release of Obama's college registration from nearby Occidental college. Since Obama was listed as an Indonesian citizen in his school records from Indonesia and used last name Soetoro and was removed from his mother's passport

records as he obtained allegiance to another sovereignty (Indonesia), it was reasonable and in good faith for the plaintiff to seek Obama's college application, as it would provide the last necessary bit of evidence of his foreign citizenship and his foreign allegiance after the age of majority and his lack of legitimacy to the U.S. Presidency. Ex Parte emergency hearing was justified and in good faith in light of an upcoming U.S. General election. By that time the case was transferred to the third judge, Charles Marginis. At the November 1st hearing Judge Marginis initially stated that he tends to believe that the evidence is insufficient. During the hearing Judge Marginis was rude, made assertions that were flagrantly erroneous and not only was seeking to dismiss the case of inconvenient truth, but also was seeking to defame and slander Taitz and harass and intimidate her with sanctions in order to discourage her and others from continuing to fight the elections fraud.

As an example, during the hearing Judge Marginis made a demeaning and untrue statement "Evidence does not come from the Internet". Taitz responded by challenging Marginis to show, which part of the evidence in the case came from the Internet. She responded that the evidence of the elections fraud came from the official records of the Secretary of State of California, from the affidavits of law enforcement officers and official records. Moreover, the sufficiency of the evidence was to be decided at trial, there was no justification to dismiss the case without trial. As Judge Marginis saw that he cannot show justification in

dismissing the case based on insufficiency of evidence, he came up with other reasons, mainly insufficiency of service, whereby in his order he made flagrantly erroneous statements in order to misrepresent sufficiency of service and custom tailor it for dismissal. Specific points challenging the validity of dismissal are presented below.

II. COURT ERRED IN IT'S ASSERTION THAT THE CASE AT HAND WAS FILED PREMATURELY.

Court dismissed the challenge claiming that the challenge was filed early, it was not ripe.

§16421 states that in primary election the challenge has to be brought within 5 days of the completion on the canvassing. Taitz called the office of the Secretary of State and asked to talk to the Elections Division and asked for the official end of canvassing. She was told that it was July 3. Five days from July 3rd was July 8th, which fell on the weekend, therefore she filed on July 9th. The challenge was filed timely and the court erred in dismissing the case, claiming that it was filed prematurely.

The court claimed that Taitz filed 4 days early because on the web site of the Secretary of State the elections results were filed four days later. Petitioner was

justified in relying on the information given to her by the office of the Secretary of State and in light of a very small window of opportunity, only 5 days to file a challenge, she acted prudently and reasonably in filing 5 days after the end of canvassing date given to her by the office of the Secretary of State.

Moreover, the court inserted in its' opinion evidence which is not on the record and which is not correct.

In his opinion (Appendix Document 1 p. 1 Order to Dismiss) Judge Marginis claims that the filing was 4 days early because he saw a notation on the web site of the Secretary of State at

http://www.sos.ca.gov/elections/sov/2012-primary//pdf2012-complete-sov.pdf

When plaintiff entered this url it showed code 404 page not available. (Appendix Document 2 Screen Shot showing that the aforementioned page

http://www.sos.ca.gov/elections/sov/2012-primary//pdf2012-complete-sov.pdf

is not available. While Judge Marginis accused Taitz of gathering unreliable evidence from the Internet, even though she provided him with sworn affidavits of law enforcement officials, the fact of the matter is that Judge Marginis was the one who based his opinion on some data he found on the internet which is indeed not reliable and not available.

So, Judge Marginis had taken upon himself to act not as an unbiased judge, but as a defense attorney, he had dismissed the case of elections fraud of national importance based on the fact that he personally went outside the record, searched for some web site announcement, which is not even available and cannot be verified by the Court of Appeals and on this basis he decided that the case was filed 4 days early and dismissed it as being filed too early, not being ripe.

Moreover, the meaning and intent of the Section 16421 is to file an election contest quickly, particularly in a primary election, so that delayed filing of the contest does not impede the upcoming general election.

Cummings v. Stanley 177 Cal.App.4th 493, 99 Cal.Rptr.3d 284 Cal.App. 1 st.,2009. September 04, 2009. In Cummings a contest of an election of the Republican Central Committee members was filed.
The more difficult task before us is to determine if an election to a party central committee is also a "primary election" for purposes of the election contest provisions of

sections 16401, subdivision (d), and 16421. This court examined section 16421 and ruled that it is not bound by the interpretation by the lower court and it has to interpret what is the reasonable meaning of the legislature in drafting of the aforementioned statute.

"When we interpret the meaning of statutes, our fundamental task is to ascertain the aim and goal of the lawmakers so as to effectuate the purpose of the statute."

(*McAllister v. California Coastal Com.* (2008) 169 Cal.App.4th 912, 928, 87 Cal.Rptr.3d 365.) "We take a three-step sequential approach to interpreting statutory language. First, we will examine the language at issue, giving 'the words of the statute their ordinary, everyday , meaning.' 177 Cal.App.4th 493, *508, 99 Cal.Rptr.3d 284 If we conclude that the statutory meaning is free of doubt, uncertainty, or ambiguity, the language of the statute controls, and our task is completed. Second, if we determine that the language is unclear, we will attempt to determine the Legislature's intent as an aid to statutory construction. In attempting to ascertain that intent, 'we must examine the legislative history and statutory context of the act under scrutiny. Third, if the clear meaning of the statutory language is not evident after attempting to ascertain its ordinary meaning or its meaning as derived from legislative intent, we will 'apply reason, practicality, and common sense to the language at hand. If possible, the words should be interpreted to make them workable and reasonable, ... practical [citations], in accord with common sense and justice, and to avoid an absurd result"

(*Sisemore v. Master Financial, Inc.* (2007) 151 Cal.App.4th 1386, 1411, 60 Cal.Rptr.3d 719.) "The interpretation of statutes presents a question of law for our

independent review. ‘As the matter is a question of law, we are not bound by evidence on the question presented below or by the lower court's interpretation. " (*Katz v. Los Gatos–Saratoga Joint Union High School Dist.* (2004) 117 Cal.App.4th 47, 53, 11 Cal.Rptr.3d 546; see also *Amdahl Corp. v. County of Santa Clara* (2004) 116 Cal.App.4th 604, 611, 10 Cal.Rptr.3d 486.)

Moreover, even if this court were to believe that Taitz filed her election challenge too early, which is absolutely not the case, Judge Marginis contradicts himself in claiming that this deficiency cannot be cured, as he himself quotes Broadbent vs. Keith (1911) 13.Cal.App.382 "premature filling dies not impede electors right to file anew after election). This clearly contradicts the finding by Judge Marginis that it was an error not capable of being cured. Judge Marginis claimed that this error cannot be cured as he claims that the Plaintiff failed to serve the defendants, however this statement is erroneous both legally and factually, as all of the parties were properly served, as shown in the following section.

These actions by Judge Marginis represent an error and an abuse of judicial discretion.

III. JUDGE MARGINIS ERRED AND ABUSED HIS JUDICIAL DISCRETION IN RULING THAT THE DEFENDANTS WERE NOT SERVED PROPERLY

1. Appendix shows Defendant Barack Obama (Hereinafter "Obama") being served properly several times.

True and correct copy of the proof of service by samedayprocess.com shows Obama being served on both October 26 and October 31 by the professional process server SameDayProcess through the U.S. Attorneys/ attorney General office at 950 Pennsylvania Ave NW, Washington, DC. Appendix pp.5,6,7, 23-35

Additionally he was served through certified mail on July 10, 2012.

2. Defendant Elizabeth Emken was served on 10.30.2012 by personal service at her address at 243 Morris Ranch Ct. Danville, CA 94526 by Alexander Gofen, who signed the proof of service. additionally she was served by certified mail on July 10, 2012. Appendix p 8-9

3. Defendant Diane Feinstein was served with the complaint through certified mail on 07.10.2012. Her attorney Lanse Olson from the law firm Olson Hagel called Plaintiff Taitz to find out what is it about and asked Taitz to forward to him the pleadings. Affidavit of legal assistant Yulia Yun filed with the Superior court on July 13, 2012 states that she talked to Ms. Feinsein's attorney Mr. Olson and forwarded the pleadings to him at the e-mail address he provided at lance@olsonhagel.com. Additionally Mr. Gofen filed proof of service on

10.30.2012, where he stated that he appeared at Ms. Feinstein's office on 10.30.2012, where he was advised that Ms. Feinstein refuses to accept personal service of process and she demands service to be performed via mail or fax. Attachment by Mr. Gofen dated 10.30.2012 states that he served Ms. Feinstein via both certified mail and fax. Proof of service contains a certified mail receipt, postal receipt, fax printout and proof of service and Declaration of Yulia Yun Appendix pp. 10,11, 12, 13, 14, 15, 16, 17, 18, 19, 27-38.

It appears that Judge Margins did not review all the documents in the case when he rendered his opinion.

Additionally Cal C.C.P. Section 410.10 states that

Strict compliance with statutes governing service of process is not required; substantial compliance is sufficient. Statutory provisions regarding service of process should be liberally construed to effectuate service and uphold the jurisdiction of the court if actual notice has been received by the defendant.

Gibble v. Car-Lene Research, Inc. 67 Cal.App.4th 295, 78 Cal.Rptr.2d 892 Cal.App. 1 Dist.,1998. Strict compliance with statutes governing service of process is not required; substantial compliance is sufficient.

West's Ann.Cal.C.C.P. § 410.10 et seq. Statutory provisions regarding service of process should be liberally construed to effectuate service and uphold the jurisdiction of the court if actual notice has been received by the defendant.

West's Ann.Cal.C.C.P. § 410.10 et seq.

Ellard v. Conway 94 Cal.App.4th 540, 114 Cal.Rptr.2d 399 Cal.App. 4 Dist.,2001. December 12, 2001 "Substitute service of notice on defendants in fraud action was proper; plaintiffs were diligent in attempting personal service by contacting the United States Postal Service and obtaining a current address, and plaintiffs were required to resort to substitute service at a private/commercial post office box.

West's Ann.Cal.C.C.P. § 415.20(a, b)."

"Service must be made upon a person whose relationship with the person to be served makes it more likely than not that they will deliver process to the named party."

National Equipment Rental, Ltd. v. United Lumber Co. 24 Cal.App.3d 1012, 101 Cal.Rptr. 291 Cal.App. 1972. "...lessee, under New York law, consented to receive service of process by delivery of notice to one other than a director or officer, and New York court did not lack jurisdiction over lessee on ground that service of process on

clerical employee was not made on proper party to receive service.", "New York procedures under which California corporation was deemed to have consented to receive service of process by delivery of notice to one other than a corporate director or a corporate officer did not violate basic due process, in absence of unequal bargaining power or other aspects of adhesion contracts, and thus judgment obtained in New York against such corporation was entitled to full faith and credit in California." Denlinger v. Chinadotcom Corp. 110 Cal.App.4th 1396, 2 Cal.Rptr.3d 530 Cal.App. 6 Dist.,2003. Article 10(a) of the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters, which prohibits interference with "the freedom to send judicial documents, by postal channels, directly to persons abroad," authorizes service of process by mail; Convention applies only to service of process, service of process by mail is consistent with interpretative materials such as the report of the Commission, Handbook, and State Department, and allowing service of process by mail promotes a smooth and efficient international legal system. Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, Art. 1 et seq.,

Fed.Rules Civ.Proc.Rule 4 note, 28 U.S.C.A.; West's Ann.Cal.C.C.P. § 413.10(c).

a. Barack Obama was served by the personal service of a professional server of process through the Department of Justice, as Obama demands to be served through the Department of justice, additionally he was served repeatedly through the certified mail with receipts attached.

b. Candidate for the U.S. Senate Elizabeth Emken was served by a personal service and proof of service was filed.

c. Proof of service on Diane Feinstein was filed and the process server attested to the fact that he arrived at the elections Headquarters for Diane Feinstein the staff for Diane Feinstein advised him that they refuse to accept personal service of process and the only way it will be accepted, is by mail. Plaintiffs submits both the Proof of service certification and proof of service receipts. the court erred and abused its discretion in ruling that the defendants were not served.

IV JUDGE MARGINIS ERRED IN REGARDS TO REFERENCE TO CODE 15375

Judge Marginis writes: In addition, in the case of an office for which candidates are certified for the ballot by the Secretary of state (which includes Senators and President-see election Code §15375), only Sacramento Superior Court has jurisdiction to hear the challenge. However, when one examines §15375, it is not

what the statutes says. The statute says that elections officials simply need to forward to the Secretary of State the Results of the election.

CAL. ELEC. CODE § 15375 : California Code - Section 15375

The elections official shall send to the Secretary of State within 35 days of the election in an electronic format in the manner requested one complete copy of all results as to all of the following:

(a)All candidates voted for statewide office.

(b)All candidates voted for the following offices:

(1)Member of the Assembly.

(2)Member of the Senate.

(3)Member of the United States House of Representatives.

(4)Member of the State Board of Equalization.

(5)Justice of the Court of Appeal.

(6)Judge of the superior court.

(c)All persons voted for at the presidential primary. The results for all persons voted for at the presidential primary for delegates to national conventions shall be canvassed and shall be sent within 28 days after the election.

(d)The vote given for persons for electors of President and Vice President of the United States. The results for presidential electors shall be endorsed "Presidential Election Returns."

(e)All statewide measures.

(f)The total number of ballots cast. The results of all of the state wide elections.

In 2010 the same plaintiff Taitz has filed an election challenge of another state wide election, specifically election for the Secretary of State. This challenge was filed in the same very court, in the superior Court of Orange County as *Taitz v Dunn* 30-2010-00381664 and the Presiding judge Jeffrey Glass found that there was jurisdiction, the case proceeded, however the court ruled that Candidate Dunn was eligible. The case went further to the Court of Appeal and was heard by this very court *Taitz v Dunn* G045351, Ca Court of Appeal for the Fourth District and again the court found jurisdiction and did not find that this election challenge of the State wide election had to be dismissed due to lack of jurisdiction and that the Superior court of California and the Fourth District court of appeal were not the

proper court or did not have jurisdiction. Ultimately the case was decided in relation to eligibility of Candidate for the Secretary of State Dunn. Both Superior court of Orange County and this Court of Appeal found the case to be in a proper court with proper jurisdiction.

As such the plaintiff was justified in filing another challenge of another state wide election in the same very court were another state wide election was heard on the merits only a year earlier.

Similarly, two other judges held hearings in this case previously: Judge Sanders and Judge Luesebrink. Neither one of them found that they do not have jurisdiction over this elections challenge. Judge Sanders simply continued the case and ordered the Plaintiff to e-mail or fax the defendants in regards to the notice for ex parte hearing to be continued to July 13. Judge Luesebrink previously denied an ex parte motion ruling the case to be weak, which is a ruling on the merits. Prior to ruling on the merits Judge Luesebrink had to determine that he has jurisdiction. He could not rule that the ex-parte motion should be denies as "weak" if he had no jurisdiction to do so.

Moreover, Elections statutes are construed liberally.

2. Errors or irregularities

"That contestant filed affidavit in superior court instead of filing statement of grounds of contest with county clerk and stated that he was proceeding under § 20300 et seq., instead of § 20000 et seq., may not necessarily be fatal to maintenance of action to contest election of county sheriff at primary election as a general election contest." *Doran v. Biscailuz* (App. 1954) 128 Cal.App.2d 55, 274 P.2d 691.

Additionally, on July 10. 2012, one day after filing the challenge, Plaintiff filed a motion for injunctive relief under §§16100, 16101, 18203, 18500, 16200. Neither one of these statutes require filing in Sacramento.

Lastly, even if one finds that this challenge should have been filed in Sacramento county, there is nothing preventing the court from transferring the case to the Sacramento county sua sponte by the courts own order or allowing the plaintiff to file a motion to transfer.

Cases are transferred on a daily basis, venues are changed on a daily basis, this is not a basis for completely dismissing the case or denying leave to amend.

California Code of Civil Procedure states:

396. (a) No appeal or petition filed in the superior court shall be dismissed solely because the appeal or petition was not filed in the proper state court.

(b) If the superior court lacks jurisdiction of an appeal or petition, and a court of appeal or the Supreme Court would have jurisdiction, the appeal or petition shall be transferred to the court having jurisdiction upon terms as to costs or otherwise as may be just, and proceeded with as if regularly filed in the court having jurisdiction.

So, based on 396 (a) and (b) Judge Marginis erred and abused his judicial discretion in dismissing the case instead of transferring it to another county, namely Sacramento County Superior Court.

V JUDGE MARGINIS ERRED IN RULING THAT THE DECLARATION DID NOT COMPORT WITH THE REQUIREMENTS OF THE §2015.5.

Judge Marginis made a general statement that the declaration did not comport with the requirement of §2015.5, however he did not provide any specifics, as to what in the declaration of the candidate and elector Taitz did not comport with the §2015.5 and why it cannot be cured by an amendment.

This assertion by judge Marginis is not based on any fact and law and represents an error of both fact and law and needs to be reversed.

Plaintiff will not provide further discussion on this statute, as there is no explanation and no specifics, what was not compliant in the declaration and this is not a stated reason for the dismissal of the case.

VI. JUDGE MARGINIS ERRED IN DENYING MOTION TO COMPEL PRODUCTION OF RECORDS FOR OBAMA AND SANCTION THE PLAINTIFF FOR SEEK A MOTION TO COMPEL.

Appellant Taitz appeared before Judge Marginis on October 29 and requested a leave of court to file an ex-parte motion to compel production of college registration for Barack Obama from the Occidental College.

Taitz argued during that hearing that this is a matter of national importance, that the complaint and further pleadings showed that Barack Obama is using a forged birth certificate, forged Selective Service certificate, a Social Security number not assigned to him and he is listed as a citizen of Indonesia in his mother's passport records. Judge Marginis granted Taitz ex-parte motion to hold an ex parte hearing on her Ex parte motion to compel production of Obama's Occidental college registration from the custodian of record Occidental College. Motion hearing was scheduled by Judge Marginis on November 1, only 6 days before the November election. Due to the fact that Obama was not responding after being served,

plaintiffs sought the records in question from the custodian of records, Occidental college.

Occidental college is not a party to this legal action, but only a custodian of records, Taitz had to apprise Occidental of the hearing to compel production of records in its possession and she had to insure that the representative of Occidental appears in court and provides the records to Judge Marginis. Taitz served Occidental with summons to appear at the hearing. Summons were served through the personal service by Joseph Dolz and Ellen Knowles . Appendix 40, 41, 44, 45, 48, 49 In this situation issuance of subpoena to appear in court and provide records was reasonable.

The opposition by the Occidental college can be summarized in one sentence: Occidental college believed that the required information was private, not public and needed either the consent of the former student or court order to release the required records.

Judge Marginis had to decide:

a. were the records private?

b. even if they were private, did the public interest outweigh Obama's privacy interest?

During the motion hearing Taitz argued that she is only asking for a redacted college registration, specifically 4 words within the registration: Obama's first and last name in the application/registration, his citizenship and time and place of birth. Obama already released all of this information. He claims that his legal last name is Obama, that he is a U.S. citizen, not a citizen of any other country and that he was born in Honolulu HI in August 4, 1961. Since Obama himself made this information public and was obligated to make this information public in order to run for the U.S. President, there was no private information to be released. At issue was not privacy but rather fraud and forgery, as evidence showed Obama committing fraud and using forged IDs.

As such any determination of such information to be private would be an error.

b. Even if one were to believe that Obama's citizenship and place of birth were somehow private, at issue was whether the public interest outweighed the public interest?

This part had to be argued by Obama. Obama did not show up. All that custodian of record had to do, was seek determination by the court whether requested information was private and whether the court would issue an order to release it. This was supposed to be a short hearing with minimal attorneys fees of around $200-$300, if attorney was even necessary for the custodian of records. However,

Jay Ritt, hired by the Occidental, happens to be a friend and neighbor of the personal attorney for Obama, California attorney Scott J. Tepper, who is currently representing Obama as a defendant in a RICO case *Taitz et al v Democratic Party et al* 12-cv-00280 Southern District of MS, where Taitz and others are suing Obama and his accomplices for a Racketeering scheme to defraud the voters and use forged IDs. In that case Taitz filed a motion with the court to sanction Tepper and his MS co-counsel Ed Begley for using a forged birth certificate for Obama and seeking a judicial notice of it while having evidence that it is indeed forged. The motion is still before the court.

Opposition by the Occidental college was not a typical opposition of the custodian of record who simply wants the judge to rule whether the requested redacted record is subject to release, it was an opposition written by an attorney de facto representing Obama and seeking to hide the truth and retaliate against the whistle blower Taitz.

Over a hundred pages of sworn affidavits of law enforcement officials and experts showed Obama to be lying and using forged IDs.

Judge Marginis had to take into consideration that the hearing was held on November 1, only 6 days before the General election, the right for the public to know, whether Obama is a legitimate candidate or a criminal committing fraud and

using forged IDs who colluded with a number of high ranking officials, attorneys and some judges in a Racketeering scheme to defraud the nation, use forged IDs, stolen Social Security number, last name not legally his and usurp the position of the Commander-in-Chief by virtue of fraud. As the U.S. President is also a Commander in Chief, the whole national security is at stake, control of the U.S. nuclear arsenal is at stake, the whole U.S. economy is at stake. Public interest is tremendous.

On the other hand Judge Marginis had to put on the scale Obama's interest to privacy. All of the requested information was previously released by Obama himself. Even if it wouldn't be released, it had to be released, as the U.S. citizenship and natural born status are prerequisites of the U.S. Presidency under Article 2, §1, cl 5. So, not only there was a tremendous public interest, it clearly outweighed the expectation of privacy if any connected to such release.

Was there any other alternative means to obtain the required records? No, Obama was not responding in spite of being served repeatedly. As stated in the motion, Occidental College refused to provide such records repeatedly in response to subpoenas issued by the Plaintiffs in *Keyes v Bowen* 34-2008-80000096-CU-WM-GDS and in other cases. Based on the modus operandi of defendant Obama and his custodian of record Occidental College that the only way to obtain the record

and ascertain whether Obama is committing fraud, is an order by the court to the custodian of record, Occidental college to release such information.

Was it reasonable for Taitz to seek required order to release records in an ex-parte emergency hearing? Yes it was reasonable and highly prudent, as the hearing was only six days before the election.

Based on all of the above Judge Marginis erred in not granting the motion to release required redacted registration for Obama from his custodian of record.

Moreover, even if he ruled to deny the motion, there was absolutely no justification to sanction Plaintiff Taitz for filing a motion seeking a release of such record.

In order to sanction a party under Rule 1987.2 a party had to show that a party being sanctioned did something oppressive or acted in bad faith.

Cal CCP §1987.2

(a) Except as specified in subdivision (c), in making an order pursuant to motion made under subdivision (c) of Section 1987 or under Section 1987.1, the court may in its discretion award the amount of the reasonable expenses incurred in making or opposing the motion, including reasonable attorney's fees, if the court finds the motion was made or opposed in bad faith or without substantial justification or that one or more of the requirements of the subpoena was oppressive. following precedents show that the case at hand does not fall within cases sanctionable under 1987.2

MCA v The State of California 128 Cal.App.3d 225, 181 Cal.Rptr. 404 Request for sanctions and attorneys fees was denied, even though a party had to travel out of state and participate in both trial and appeal.

Imuta v Nakana 233 Cal.App.3d 1570, 285 Cal.Rptr. 681 Where court made no attempt to comply with requirement of statute governing sanctions for frivolous motions that there be a writing reciting in detail the conduct or circumstances justifying the order, sanctions imposed for motions to compel depositions and to stay other depositions would be viewed as a discovery sanctions for purposes of determining appealability.

Silliman v The Municipal court of the Monterey Peninsula Judicial Circuit. 189 Cal.Rptr. 318 Municipal court appealed from a judgment of the Superior Court of Monterey County, Harkjoon Paik, J., issuing a peremptory writ commanding municipal court to set aside its decision imposing attorney fees on attorneys and their clients in a criminal proceeding. The Court of Appeal, Elkington, J., held that: (1) relief by way of the extraordinary writ of prohibition was legally available to attorneys and their clients; (2) the subpoena that attorneys and their clients caused to be issued of the municipal court judge who issued search warrant was properly quashed; and (3) attorneys who knowingly opposed the motion to quash subpoena, caused by them to be issued and served without expectation of its success due to settled law, could not be constitutionally ordered to pay attorney fees of the subpoenaed witness incurred in successfully making the motion to quash. In the case at hand there was no explanation of what was oppressive or in bad faith done by Plaintiff

Espinoza v classic Pizza 114 Cal.App.4th 968, 8 Cal.Rptr.3d 381, 9 Wage & Hour Cas.2d (BNA) 476, 04 Cal. Daily Op. Serv. 35, 2004 Daily Journal D.A.R. 38Trial court adequately articulated its reasons for imposing sanctions when it specified they were based on party's service of a second subpoena duces tecum in violation of two earlier rulings denying such discovery. While in Espinoza actions by the Appellant can be seen as oppressive and in bad faith, it is completely different from actions of the Plaintiff in the case at hand, where the appellant issued a subpoena in violation of two prior orders, it is different from the case at hand where there were no prior orders.

At the hearing Judge Marginis did not provide any explanation. He ordered Jay Ritt, attorney for the Occidental to draft an order. The order drafted by Ritt simply pointed out a few deficiencies in the subpoena served on the Occidental college prior to the motion hearing. Technical deficiency in the subpoena does not represent oppressive behavior, does not mean bad faith. Prior argument showed that actions by Taitz were in good faith, in furtherance of a legitimate public interest and there was nothing oppressive in a request for the court to release a redacted record which has a paramount public interest. Cases cited above show that the courts issue discovery sanctions very sparingly and judiciously and only in cases of repeated abuse, oppression, bad faith. In the case at hand there were no prior order forbidding the plaintiff to issue subpoenas or issue a motion to compel records or order to produce records. Plaintiff/ appellant sought the redacted record in good faith, her actions were not oppressive. The court could issue an order

releasing a redacted record, which would not violate the Defendant's privacy, but would serve public interest. The order by the court for the Plaintiff to pay $4,000 of attorneys fees as a sanction and refusal to stay imposition of such sanction pending motion for reconsideration and/or appeal was an abuse of a judicial discretion. The order was not reasonable and did not follow established precedents or clear guidelines of the statute at hand. Judge Marginis did not provide any explanation as to what was abusive or oppressive in the actions by the Plaintiff and how awarding an exorbitant fee of $4,000 for a short hearing was in any way reasonable. The order clearly represented an abuse of judicial discretion and should be reversed.

Actions by the lower court cause a Chilling effect on the First Amendment right to free speech and Redress of Grievances, 5th and 14th Amendment right for Due Process, Equal Protection, and honest services under the color of authority. An abuse of Judicial discretion by the lower court would discourage the public from redress of grievances in relation to flagrant elections fraud, which would in turn undermine the Democratic principles of our Consitutional Republic.

CONCLUSION

Judge Marginis erred and abused his judicial discretion in dismissing the case. Judge Marginis erred and abused his judicial discretion in denying an ex parte motion to compel production of the college application for Defendant

Barack Obama from the Custodian of Record Occidental College and in sanctioning the Plaintiff for filing a motion to compel. The order should be reversed

Respectfully submitted

Orly Taitz

Appellant

CERTIFICATE OF WORD COUNT

Total number of words is 6,280 words does not exceed allowed amount.

/s/ Orly Taitz