Dr. Orly Taitz, ESQ

29839 Santa Margarita, ste 100

Rancho Santa Margarita, Ca 92688

949-683-5411, fax 949-766-7603

orly.taitz@gmail.com

PRO SE PLAINTIFF IN MS

IN THE US DISTRICT COURT

SOUTHERN DISTRICT OF MISSISSIPPI

Dr. Orly Taitz, ESQ et al	)	CASE 12-CV-280
v	)	HON. HENRY WINGATE
Democratic Party of Mississippi et al	)	PRESIDING

OPPOSITION TO MOTION TO DISMISS BY DEFENDANTS ONAKA AND FUDDY

BRIEF IN SUPPORT OF OPPOSITION

Dr. Orly Taitz ESQ is a pro se plaintiff in MS, who is providing attached brief in opposition to motion to dismiss by the defendants Fuddy and Onaka.

1.Defendants Fuddy and Onaka are claiming that the complaint against them needs to be dismissed, as they did not have minimal contact with the state of Mississippi. This argument is flawed as Fuddy and Onaka availed themselves to the jurisdiction of the state of MS by knowingly and with malice certifying an alleged birth certificate, which is deemed to be a forgery by Multiple experts. When they did that, they knew Obama will use those documents to defraud the citizens of every state including MS. They availed themselves to the jurisdiction of the state of MS. They engaged in a scheme which extends to the state of Mississippi and every other state in the nation and they are subject to the long arm statute and jurisdiction of the state.

2.Defendants are stating that appearance in Mississippi is burdensome. As stated previously, Defendants availed themselves to the jurisdiction of this court by certifying a forgery that they claim to be a true and correct copy of Obama's birth certificate and refusing any examination of the original, which they claim to possess. As the forgery in question relates to the denial of voting rights of millions of citizens of the state of Mississippi, this court has jurisdiction to hear this case. Voting rights and fair elections outweigh a minor inconvenience of the defendants.

3. As defendants acknowledged, 18U.S.C. §1965 Jurisdiction under RICO extends "against any person...for any district in which such person...has an agent, or transacts his affairs". In regards to fraud, forgery and possibly treason committed

by Fuddy and Onaka in certifying a forgery in order to allow Obama to get on the ballot in every state, Obama is indeed their **AGENT**, Democratic party of Mississippi is their **AGENT** and they are engaged in the transaction of their affairs, specifically fraud in the state of Mississippi.

4. Recent case of CGC Holding CO et al v Hutchens et al 2011-cv-01012 U.S. District Court in the District of Colorado. In CGC Holding U.S. District court has denied 12b motions to dismiss RICO case against Canadian and Florida defendants, which was brought in Colorado. The court ruled that that out of state defendants among them Florida attorneys can be tried in RICO in Denver Colorado, when their actions affected the people of Colorado, specifically in relation to bogus loans sold. The court did not find suing in Colorado to be such a great inconvenience which would warrant dismissing the case. Additionally, in case at hand plaintiff Taitz will be willing to travel to Hawaii to conduct depositions and discovery there, so that Hawaiian defendants will not be inconvenienced.

Moreover, the court found that RICO provides for a nationwide service of process.

The jurisdictional question when a federal statute conveys nationwide service therefore is whether the exercise of jurisdiction comports with due process. *Peay v. BellSouth Medical Assistance Plan,* 205 F.3d 1206, 1209 (10th Cir. 2000). RICO conveys nationwide service

of process. "When a civil RICO action is brought in a district court where personal jurisdiction can be established over at least one defendant, summonses can be served nationwide on other defendants if required by the ends of justice." *Cory v. Aztec Steel Bldg., Inc.*, 468 F.3d 1226, 1231 (10th Cir. 2006).

There is no argument that RICO extends to Defendants Democratic Party of Mississippi and Secretary of State of Mississippi. They, themselves removed this case to this court. As this court already ruled that it has jurisdiction over the case and specifically over Defendants Democratic Party of Mississippi, it also has jurisdiction over other RICO defendants. As such an argument of violation of due process is without merit. The whole point of RICO, is that it is an **enterprise in fact that crosses state lines**. No matter in what jurisdiction the case is tried, often there will be defendants residing in other states.

In CGC Holding v Hutchens the court proceeded: "Defendants Alvin Meisels' and Blaney McMurtry LLP's Motion to Dismiss [#181]: DENIED. These defendants previously filed [#86], and the Court denied, a motion to dismiss for failure to state a claim upon which relief could be granted under Fed. R. Civ. P. 12(b)(6). That motion was based on the extraterritorial application of RICO. These defendants purported to "reserve the right" to file another rule 12(b)(6) motion "addressing deficiencies in the Complaint" if the first motion failed. *Id.* at 2. This Court does not entertain multiple Rule 12(b)(6) motions filed seriatim. Defendant Carl Romano's Motion to Dismiss for Lack of Personal Jurisdiction [#186]: DENIED. Mr. Romano was added to the case in plaintiff's Amended Complaint [#175]. He, like defendant Gaché, is a partner in defendant Broad and Cassel, a Florida law firm. Plaintiffs allege that Mr. Romano, Mr. Gaché and defendant Meisels, a Canadian lawyer, made false and misleading representations regarding the bona fides of Sandy Hutchens and his entities... They allegedly knew or were recklessly indifferent to the fact that the three entities had not, as had been represented, closed

"hundreds of loans." *Id.* ¶¶51-52. Plaintiffs set forth additional allegations concerning only the Florida lawyers in 11 paragraphs quoted verbatim below in the Court's discussion of motion #187. The Court addressed the Mr. Gaché and his law firm's jurisdictional motion in its November 1, 2011 order [#149]. The jurisdictional question when a federal statute conveys nationwide service therefore is whether the exercise of jurisdiction comports with due process. *Peay v. BellSouth Medical Assistance Plan,* 205 F.3d 1206, 1209 (10th Cir. 2000). RICO conveys nationwide service of process. "When a civil RICO action is brought in a district court where personal jurisdiction can be established over at least one defendant, summonses can be served nationwide on other defendants if required by the ends of justice." *Cory v. Aztec Steel Bldg., Inc.,* 468 F.3d 1226, 1231 (10th Cir. 2006). Here, per the Court's previous order, personal jurisdiction can be established over several other defendants. With respect to due process, the burden is on the defendant to show that the exercise of jurisdiction in the chosen forum will 'make litigation so gravely difficult and inconvenient that [he] unfairly is at a severe disadvantage in comparison to his opponent.'" *Id.* at 1212. The court listed five factors to be considered regarding the level of inconvenience, adding that inconvenience would rise to a level of constitutional concern "only in highly unusual cases." *Id.*

This Court applied the five factors to the facts concerning Mr. Gaché and Broad and Cassel and denied the motion for the reasons there stated. *Id.* at 20-22. Mr. Romano acknowledges that his jurisdictional arguments are similar.... With respect to factor number four (situs of discovery) Mr. Romano states that "[a]ll of the discovery pertinent to Romano, Broad and Cassel, and Gaché will take place in Florida, with some discovery in Canada." Motion [#186] at 6. Setting aside the internal inconsistency, these facts do not indicate inconvenience to a Florida-based defendant. Regarding factor five (nature of the regulated activity) he argues that all of the activity concerning him occurred in Florida. That presumably is also true of his partner and law firm. Mr. Romano provides affidavits and deposition testimony that essentially argue the merits of plaintiffs' claim. To any extent they are relevant to the jurisdictional issue, the Court must construe them in plaintiffs' favor. The Court concludes that nationwide service applies, that the ends of justice will be served by resolving all related claims in one forum, and that the assertion of personal jurisdiction over Mr. Romano does not create such a grave inconvenience as to violated his right to due process." id.

5. Supplemental jurisdiction

United States federal courts hear additional claims substantially related to the original claim even though the court would lack the subject-matter jurisdiction to hear the additional claims independently. 28 U.S.C. § 1367 is a codification of the Supreme Court's rulings on ancillary jurisdiction (*Owen Equipment & Erection Co. v. Kroger*, 437 U.S. 365 (1978)) and pendent jurisdiction (*United Mine Workers of America v. Gibbs*, 383 U.S. 715 (1966)) and a superseding of the Court's treatment of pendent party jurisdiction (*Finley v. United States*, 490 U.S. 545 (1989)).

By default, courts have supplemental jurisdiction over "all other claims that are so related . . . that they form part of the same case or controversy" (§ 1367(a)). The true test being that the new claim "arises from the same set of operative facts." This means a federal court hearing a federal claim can also hear substantially related state law claims, thereby encouraging efficiency by only having one trial at the federal level rather than one trial in federal court and another in state court. As this court has jurisdiction over the defendants in RICO, this court also has supplemental jurisdiction to hear other claims in this case against the defendants, as those claims originated from the same nucleus of facts.

6. COMPLAINT IS SUFFICIENT UNDER IQBAL AND BELL ATLANTIC

Defense asserts that the complaint is deficient under the standard of Iqbal and Bll Atlantic, specifically they states: *Iqbal* and *Twombly* also mandate that the Plaintiffs' pleadings contain "more than labels and conclusions" because the "formulaic recitation of the elements of a cause of action will not do." *Twombly*, 550 U.S. at 555. Thus, a complaint which merely propounds "naked assertion[s]" devoid of "further factual enhancement" does not fulfill the federal pleading requirements, nor is the mere possibility of misconduct enough."

This assertion is factually incorrect.

Plaintiffs provided 15 exhibits which supplement the complaint with factual evidence.

a. Plaintiffs provided a transcript of the press conference by Sheriff Joseph Arpaio, where Arpaio and his investigator Mike Zullo shows in great detail that the birth certificate certified by the Registrar Onaka and Director of Health Fuddy represent a computer generated forgery and not the original 1961 birth certificate. Transcript shows that the alleged birth certificate was created using Adobe illustrator program, which did not exist 50 years ago. Additionally, it shows that the signature of the registrar and the date stamp reside on the separate layers, which can happen only if they are cut and pasted from other documents.

This evidence is so damning, that it is in itself sufficient for this court to appoint a special prosecutor, similar to Watergate and Lewinski prosecutors to

proceed with a criminal case for complicity to forgery by the Registrar of Hawaii Onaka and Director of Health Fuddy

b. Affidavit of Felicito Papa, graduate of Indiana institute of Technology, showing that the birth certificate certified by Onaka and Fuddy is a forgery, it has multiple layers, created with the aid of a modern computer programs. Clearly both Fuddy and Onaka committed fraud, as Fuddy signed a letter confirming that she witnessed Onaka certifying the document. She could not witness it, as the signature of the registrar was cut and pasted from a different document and resides on a different layer, when the document was opened in Adobe Illustrator.

c. Affidavit of Douglas Vogt, who is an expert in scanners and copiers attesting to the fact that the alleged birth certificate certified by Fuddy and Onaka is a forgery. Affidavit shows that the letters and numbers in the alleged certificate are of different fonts, colors, sizes, different distances between the letters, which is impossible with a document created with an aid of a type writer. One does not even need to be an expert to see different sizes of letters, different spaces, kerning(letters overlapping each other, which is not possible with a typewriter). As forgery is so obvious, that original document is not needed to prove fraud and racketeering scheme: If there is a document on file, there are only two options:

a. the original document is the same, therefore they have another copy of the same computer generated forgery with letters of different fonts, sizes and spacing, with white halo, which was created recently.

b. The original document is different, which means that what they released is a fraud and a forgery.

This is catch 22 for the defense. One way or another sufficient facts were pled to show that they are most definitely complicit in uttering of forged IDs for Barack Obama, therefore infringed upon the voting rights of American citizens and they were complicit in causing financial damages suffered by Plaintiffs.

In her RICO statement Taitz disclosed significant financial damages suffered by her as a result of the action by the defendants.

7. NOTION THAT DEFENDANTS ARE IMMUNE FROM PROSECUTION DUE TO THE FACT THAT THEY ARE GOVERNMENTAL EMPLOYEES AND INCAPABLE IN MENS REA IS FLAWED BOTH FACTUALLY AND LEGALLY.

Defendants are stating that they acted in furtherance of their duties, however their duty is to certify genuine original documents, not to certify computer generated forgeries with the purpose of usurpation of the U.S. Presidency and depravation of all civil rights of each and every American. Their actions, which are the basis of this complaint were to undermine their official duties and show clear mens rea.

Precedents show that state officials can and are routinely convicted and sent to prison in RICO, where they act with mens rea and commit criminal acts. For example, the whole Key West police department and its' chief and an attorney working with them were convicted under RICO in United States v Raymond Kasamayor et al D 837 F.2d 1509 . Defendants in U.S. v Key West acted outside the scope of their duties. In U.S. v Kasamayor defendants, who were the law enforcement engaged in criminal act, drug trafficking and drug laundering. Here defendants, Registrar and Director of the Health Department are engaged in criminal act, certifying forgeries while knowing that these forgeries will be used to usurp the U.S. Presidency. Moreover, after multiple experts reported that Obama's alleged birth certificate is a forgery, defendants through attorneys for the co-defendants Sam Begley and Scott J. Tepper submitted a motion to supplement counsel, where they submitted to this very court an image, which according to the sworn affidavit of Henry Wayland Blake (Exhibit 1) contains further falsifications, further doctoring of the image where many prior signs of forgery were removed, doctored. Also, the statement in the alleged verification was heavily lawyerd and used to mislead the court and further obstruct justice. So, there is an ongoing racketeering activity with co-defendants residing in Mississippi, aimed at committing a predicate act of FRAUD in Mississippi and it extends to fraud committed in this very court. This shows that not only Fuddy and Onaka are a part

and parcel of the original fraud and racketeering, they are a part and parcel of an ongoing scheme to defraud the Plaintiffs, the people of Mississippi and other states, defraud this very court and cover up the tracks of the first unsuccessful, sloppy forgery.

8. HAWAII WILL NOT BE A PROPER VENUE, CIVIL RIGHTS OF CITIZENS OF OTHER STATES WILL BE DENIED IN HAWAII.

Defense claims that the venue will be proper in Hawaii. Plaintiff believe that not to be the case. Since Mr. Obama resided in Hawaii in his youth and considered the most prominent citizen of Hawaii, there is an enormous sentiment in favor of Obama in Hawaii and against any challenges to his presidency. Additionally, Hawaiian statutes are often misrepresented and twisted by Hawaiian officials to benefit Mr. Obama and conceal his records. On previous occasions officials in the state of Hawaii refused to comply with duly issued federal subpoenas and refused to provide for inspection Obama's original records, even though Obama publicly waived his right to privacy and release the alleged copies. Hawaiian officials repeatedly refused to allow inspection of the original in lieu of alleged certified copies.

For the last four years multiple citizens and groups attempted to review Obama's original birth certificate.

All original documents are sealed in the state of Hawaii. all of the state government is closely connected to Obama. Governor of Hawaii is a close friend of Obama's parents. Deputy Attorney General of Hawaii in charge of the Health department, Jill Nagamine, is married to Todao Nagamine, personal attorney for Obama's family who handled Obama's sister's divorce from her first husband. Attorney General of Hawaii is a fellow Occidental college grad. The icing on the cake is the fact that the Lieutenant Governor of Hawaii, Brian Schatz, went even further and as the Chair of the Democratic Party of Hawaii submitted to the Chair of Elections a falsified OCON (Official Certificate of Nomination) in order to aid and abet Obama. Taitz submits herein as Exhibits 2-4 Certifications submitted on behalf of Al Gore in 2000, John Kerry in 2004 and Barack Obama in 2008. One can easily see that Hawaiian certifications for Gore and Kerry contain wording "legally qualified to serve under the provisions of the U.S. Constitution". In Obama's OCON wording "legally qualified to serve under the provisions of the U.S. Constitution" was removed and replaced with:

"legally qualified to serve under provisions of the National Democratic Party balloting and the Presidential Preference Poll and Caucus held on February 19h, 20OB in the State of Hawaii and by acclamation at the National Democratic Convention held August 27, 2008 in Denver, Colorado."

It is clear that the state of Hawaii is run as a little incestual clique and corruption is so rampant that the Chair of the Democratic Party of Hawaii, current Lieutenant Governor could replace the provisions of the U.S. Constitution with the provisions of the Democratic Party in order to aid and abet Obama in defrauding the citizens of this nation and including the citizens of Mississippi.

So, based on the above , Hawaii cannot be a proper venue in this case.

9. Defendants are stating that appearing in this case will take them away from their duties. If they believe that their duties constitute certifying and legitimizing computer generated forgeries while hiding the original document that they claim they have, than it might actually be in public interest to take them away from their duties for as long as possible, preferably for good.

10. Taitz provides a sworn affidavit from Henry Wayland Blake, PhD, who states that he found further computer manipulation and falsification in the new image of birth certificate submitted by Attorney Scott J. Tepper to this court as Exhibit 1 MDEC counsel request to HI DOH for Verification of Obama's birth certificate. Exhibit 1.

The question is what are the defendants certifying: the first sloppy forgery or the second document, which according to the affidavit of Henry Wayland Blake is a

better, cleaned up forgery? That in itself warrants an investigation and discovery. However, intentionally ambiguous verification of an image with further falsifications shows additional predicate act of Obstruction of Justice and shows a connection between Fuddy and Onaka and MS defendants reinforcing the argument of the enterprise in fact between the defendants.

Precedents brought by the defense are not relevant as most of them relate to the governmental entities, or relate to torts which do not require mens rea.

Lancaster Cmty Hosp. v. Antelope Valley Hosp. Dist., 940 F.2d 397 (9th Cir. 1991) and similar cases are not a relevant precedent to this case. In Lancaster the 9th Circuit ruled that a hospital cannot form mens rea and it is not in the interest of Public policy to penalize the hospital and seek treble financial damages from the hospital, however here we do not have a governmental entity, we have individuals. Plaintiffs are not suing the State of Hawaii or the Health department of Hawaii, Plaintiffs are suing individuals, who like individuals in Kasamayor, Police chief and Policemen in U.S. v Kasamayor engaged in criminal activity while being employed by the governmental entity.

It is telling that in this case the government of the state of Hawaii is not representing the defendants, they are not represented by the Attorney General of Hawaii, just as Defendants Obama, Pelosi and Astrue are not represented by the

U.S. Department of Justice, even though Taitz served Attorney General of Hawaii with the complaint and Taitz served the Attorney General of the U.S. with the complaint. Moreover, the actions of Fuddy and Onaka are clearly against the Public Policy and undermining the Public Policy of keeping true and correct statistics of Birth and Death records. If Fuddy and Onaka could certify a forged computer generated birth certificate for the U.S. President, they could certify hundreds and thousands of forged records. Provided herein at link is a radio and video report by investigator Mike Zullo of Maricopa county Sheriff's department, who is conducting a criminal investigation into forgery of Obama's birth certificate . He appeared on "Tea Party Power Hour" and at about the 7 minute mark, he is talking about information received by him regarding Japanese mafia selling Hawaiian birth certificates to individuals in Japan, so that they can become U.S. citizens and get the benefits of the U.S. citizenship. http://www.youtube.com/watch?v=IiTFfrm5jvY. Further, Zullo is stating that he believes that one of the reasons for the state of Hawaii to turn a blind eye to this racket, is the fact that all of those illegal birth certificates artificially increased the population and per capita federal dollars for Hawaii. Taitz is not saying that defendants are connected to Japanese yakuza, she is saying that all of the facts pled and the evidence provided in this case, show sufficient indication of mens rea needed for an official who happen to be a public employee to be a part of RICO.

Further, defense threw in some 25 cases, none of which have anything to do with the case at hand:

Similarly, *Lizzi v. Alexander*, 255 F.3d 128 (4th Cir. 2001), Similarly Nevada Dept. of Human Resources v Hibbs 538.U.S. 721 (2003) relate to family leave act, which has nothing to do with RICO and mens rea, *Dammon v. Folse*, 846 F. Supp. 36, 37-38 (E.D. La. 1994)- related to a governmental entity, a school board, not individuals. *Andrade v. Chojnacki*, 65 F. Supp. 2d 431, 449 (W.D. Tex 1999) is also not a RICO claim, was dismissed due to the fact that third parties sought to recover personal injuries of others. *Gentry v. Resolution Trust Corp.*, 937 F.2d 899 (3rd Cir. 1991) - the question was, whether a Municipality can be held accountable in RICO for actions of employees. Here yet again, Plaintiffs are not suing a governmental entity, but are suing individuals, who are engaged in criminal acts *See Pedrina v. Chun*, 97 F.3d 1296, 1300 (9th Cir. 1996) (dismissing civil RICO claims against city because governmental entity is incapable of forming malicious intent)- another irrelevant case brought by the defense, as the city was sued, not individuals ; *Call v. Watts*, No. 97-5406, 1998 WL 165131, at *2 (6th Cir. Apr. 2, 1998) ("Counties are not persons under RICO because they lack the capability to form the *mens rea* requisite to the commission of the predicate acts.") (internal quotations omitted)- another irrelevant case, municipality was sued, not individuals; *Guoba v. Sprotsman Props.*, No. 03-CV-5039(JS)(WDW), 2006 WL

2792753, at *4 (E.D.N.Y. Sept. 26, 2006) ("[A] RICO claim may not be sustained against a municipality because the municipality . . . is incapable of possessing the requisite *mens rea* of the underlying predicate offenses."); -again irrelevant here, as defendants are not a municipality, *Pilitz v. Village of Rockvill Centre*, CV 07-4078, 2008 WL 4326996, at *5 (E.D.N.Y. Sept. 22, 1998) ("a municipality is not capable of forming the required *mens rea* to support any underlying predicate offense"); *Pine ridge Recycling, Inc. v. Butts County, Georgia*, 855 F. Supp. 1264, 1273 (M.D. Ga. 1994) (same); *Smallwood v. Jefferson Cnty. Gov't*, 743 F. Supp. 502, 504 (W.D. Ky. 1990) (a county, like a municipal corporation, "cannot be considered a person under 18 U.S.C. § 1961(3) because it is an artificial person and lacked the capability to form the *mens rea* requisite to the commission of the predicate acts"); *Biondolillo v. City of Sunrise*, 736 F. Supp. 258, 261 (S.D. Fla. 1990) ("A municipality is incapable of the criminal intent necessary to support the alleged predicate offenses."). -again this is municipality, not individual.

Further Defense brings *Gutenkauf v. City of tempe*, No. CV-10-02129-PHX-FJM, 2011 WL 1672065, at *5 (D. Ariz. May 4, 2011) (civil RICO claims against government entities "*and their employees acting in their official capacity* fail because governmental entities are incapable of forming a malicious intent") (emphasis added);

In this case the defense quoted only the first part of the court ruling, when the court reads the rest of the ruling in Gutenkauf, it shows a completely different matter. Gutenkauf is a case, where a plaintiff, Gutenkauf, got a simple traffic ticket, which he fought. The city offered to refund him the fee he paid for a ticket, he refused and filed a 93 page abusive complaint, which included RICO. In Gutenkauf in its analysis the court actually stated that the plaintiffs can sue the employees as individuals in RICO, however in that case there court did not find Mens rea in a simple error in issuing a traffic ticket to the plaintiff, who was an identical twin of the driver, that was a simple error. The court stated:

"We therefore only consider the claims against the employees in

their individual capacities and the Redflex defendants.

Plaintiff claims that the Redflex defendants and Officer Colombe engaged in mail fraud by mailing him a traffic citation that lacked identification information and contained

a false certification. Plaintiff also claims that defendants Gallego and Barsetti are guilty of

aiding and abetting. Defendants argue that the traffic citation does not contain false

information and even if it did, the claim must be dismissed for lack of specificity."

"Even if the Redflex defendants had checked plaintiff's

license photo before mailing the ticket and posting the image, that check would not have
prevented plaintiff from receiving the citation because he and his identical twin brother look
alike. Moreover, the forms served on plaintiff included a section allowing him to identify
the actual driver to avoid liability. Had plaintiff simply identified his brother at that point,

he would have avoided any purported RICO injury" *id*

So, to summarize, all the cases brought by the defense show that the Government itself cannot be sued in RICO. A couple of cases, where there were simple torts, negligence by governmental employees are not seen as mens rea cases, however when governmental officials commit crimes, such as racketeering, fraud, forgery, drug trafficking and clearly acting not in furtherance of their duty, they can and are successfully sued in RICO as individuals. There is a clear demarcation line between cases like Gutenkauf, where defendants were allowed to be sued in RICO, but were found to be engaged in minor negligence and cases like we have at hand, where defendants conspired to commit the most serious crime ever committed in the history of this nation, usurpation of the U.S. Presidency by a foreign national, citizen of Indonesia, Barack Hussein Obama with forged IDs.

Plaintiffs have referenced affidavits of Felicito Papa, Paul Irey, Douglas Vogt, Sheriff Joseph Arpaio. All of the sworn affidavits show that the alleged birth certificate is a computer generated forgery.

All of the affidavits mention that the alleged document opens in Adobe Illustrator in multiple layers, which is a sign of a forgery, as one typewritten document would not have layers. What is more important, is that the stamp of the Registrar and the time stamp reside on a different layer, which means that those came from other documents. Affidavits also show letters in different sizes, fonts and colors, which is impossible when the document is created on a type writer. White halo effect around words and lines is impossible with a typewritten document. As a matter of fact, this evidence is so persuasive that it is enough for a declaratory relief stating that the alleged copy of Obama's birth certificate posted on whitehouse.gov cannot be a genuine copy of a document created on paper using a typewriter.

Clearly Fuddy and Onaka knew that they did not certify a genuine document. Fuddy could not witness copying and Onaka stamping the original 50 year document from file, as the stamp of the Registrar was imported on the computer composite of this document through cut and paste function of computer graphics. so clearly both of them were committing fraud and covering up forgery.

What's more is that their subsequent cover up is even more incriminating.

As stated, originally the document opened in multiple layers, flagrant sign of computer generated forgery, However the document sent by Scott Tepper to Fuddy and Onaka is different. You cannot see the original 9 layers that you see in the

computer generated forgery Obama posted on WhiteHouse.gov. According to the sworn affidavit of Henry Wayland Blake, PhD, Tepper's copy sent to Fuddy and Onaka and filed with this court in document 35 the original 9 layers are flattened, the stamp of the Registrar and the date stamp are on the same electronic file layer as the rest of the image, which makes it look more genuine, but there are more new layers seen in adobe illustrator, which according to Blake represents doctoring, modification done after the original document was printedEven if one doubts computer graphics findings by Henry Wayland Blake, PhD, there is still circumstantial evidence of cover up in the wording of the document, which was proposed by Tepper to Fuddy, forwarded to Onaka and signed by Onaka. Normally, when a certification of a document is required, registrar would certify that a document is a true and correct copy of the original and would provide an original for examination in lieu of a certified copy. Here, Tepper, attorney for the rest of the RICO defendants on one side and Fuddy and Onaka on the other side reached an agreement to provide this court with a very vague and really worthless certification. They are stating that:

"1. The original certificate of Live Birth for Barack Hussein Obama, ll, is on file with the Hawaii State Department of Health

2. The information contained in the "Certificate of Live Birth" published at http//www.whitehouse.gov//blog2011/04/27president-obama-long-form-birthcertificate, a copy of which is attached to this request, matches the information contained in the original Certification of Live birth for Barack Hussein Obama, II on file with the Hawaii state Department of Health. Document 35-1 herein.

The state of Hawaii issues multiple types of birth certificates. The state of Hawaii statute 338-5 allows one to obtain a birth certificate based on a statement of one relative only without any corroborating evidence from any hospital. The state of Hawaii statute 338-6 allows one to get a late birth certificate, obtained as a result of adoption or loss of an original birth certificate. A birth certificate created based on a letter from a grandma or based on sealing of an original record during adoption or created because the original was lost, would provide the same "information" but would be absolutely worthless as proof of birth in the U.S. Under 338-6 Obama could receive a late birth certificate yesterday. The information would correspond, but it would not state anywhere that it is a late copy.

As such we can see not only Fuddy and Onaka releasing a forgery and certifying it as a certified copy of a genuine document, but they continued in a racketeering

scheme to obstruct justice and defraud. This is exactly the type of behavior, which makes them personally liable in RICO.

9. DEFENSE IS WRONG IN ASSERTING THAT AN ACTUAL CONSPIRACY HAS TO BE PROVEN OR ALLEGED, "CONSPIRACY IN FACT" WILL SUFFICE

"Enterprise" within the meaning of 18 U.S.C. §§ 1961(4) & 1962(c), is "a group of individuals associated in fact".

Here the actions of the defendants were in concert, there was an association in fact.

10. FRCP RULE 9 AND RICO PREDICATE ACT FRAUD REQUIREMENTS ARE SATISFIED

Defense quotes

"Rule 9(b) makes it clear that "[p]leading the elements of fraud with particularity requires a plaintiff to specify 'time, place and contents of the false representations, as well as the identity of the person making the misrepresentation and what [that person] obtained thereby." *See Alpert*, 2007 U.S. Dist. LEXIS 22950, at *52 (citing *Williams*, 112 F.3d at 177). Based on the First Amended Complaint, it can be argued that the Plaintiffs identified the Defendants and addressed the time, place, and contents of any false representations made by them, but there is no language addressing what, if anything, the Defendants obtained by making the alleged misrepresentations."

While one quote brought her by the defense identifies "what person obtained thereby", this is not a required element according to FRCP. See below FRCP 9(b) does not include a requirement to plead, what Defendants obtained by making the alleged misrepresentations.

RULE 9. PLEADING SPECIAL MATTERS

(a) CAPACITY OR AUTHORITY TO SUE; LEGAL EXISTENCE.

(1) *In General.* Except when required to show that the court has jurisdiction, a pleading need not allege:

(A) a party's capacity to sue or be sued;

(B) a party's authority to sue or be sued in a representative capacity; or

(C) the legal existence of an organized association of persons that is made a party.

(2) *Raising Those Issues.* To raise any of those issues, a party must do so by a specific denial, which must state any supporting facts that are peculiarly within the party's knowledge.

(b) FRAUD OR MISTAKE; CONDITIONS OF MIND. In alleging fraud or mistake, a party must state with particularity the circumstances constituting fraud or mistake. Malice, intent, knowledge, and other conditions of a person's mind may be alleged generally.

(c) CONDITIONS PRECEDENT. In pleading conditions precedent, it suffices to allege generally that all conditions precedent have occurred or been performed. But when denying that a condition precedent has occurred or been performed, a party must do so with particularity.

(d) OFFICIAL DOCUMENT OR ACT. In pleading an official document or official act, it suffices to allege that the document was legally issued or the act legally done.

(e) JUDGMENT. In pleading a judgment or decision of a domestic or foreign court, a judicial or quasi-judicial tribunal, or a board or officer, it suffices to plead the judgment or decision without showing jurisdiction to render it.

(f) TIME AND PLACE. An allegation of time or place is material when testing the sufficiency of a pleading.

(g) SPECIAL DAMAGES. If an item of special damage is claimed, it must be specifically stated.

So, based on the black letter law Taitz was not required to plead in her complaint any specific benefit received by the defendants.

Additionally, it is easily understood that making such a huge favor to a foreign national, certified a forgery in order to allow him to get into the white House and amass power, will ingratiate such President and would give those Defendants a great access and connections to the top echelons of power and future benefits. So,

in terms of connections the benefit is self explanatory. Whether there are other connections incentives, perks and benefits, it is highly likely, however considering how high up this fraud is, it would take further depositions and discovery to ascertain. Pay to play is prevalent in DC, in Chicago, and in Hawaii. When Obama arranged for the University of Chicago hospital a million dollar grant, his wife got a board position with the same hospital at a $330,000 a year. When Michelle Obama left for Washington, reportedly nobody was hired to replace her. As another example, Director of the Selective Service William Chatfield covered up a forged Selective Service Certificate for Obama. Shortly after he left, he got a prominent board position in a biotech company. Considering the fact that Chatfield has zero background in biotech, and there is no evidence of him even graduating from an University, this could be a compensation, but further discovery would be necessary.

Further a proximate causation is satisfied in this case. RICO's proximate cause standard presents policy considerations that are exclusively within the competence of the court. As indicated by the Circuit Court in *Brandenburg v. Seidel*, 859 F.2d 1179 (4th Cir. 1988), *overruled on other grounds*, 517 U.S. 706 (1996) (emphasis added):

[RICO] require[s] not only cause in fact, but "legal" or "proximate" causes as well, the latter involving a policy rather than a purely factual determination: "Whether the conduct has been so significant and important a cause that the defendant should be held responsible." (Citations omitted.) As such, the legal cause determination is properly one of law for the court, taking into consideration such factors as the foresee ability of the particular injury, the intervention of other independent causes, and the factual directness of the causal connection.

Id. at 1189.

In this case the Plaintiffs are supposed to show that the fraud was so significant and important, as to hold the defendants accountable. Clearly certifying forgery as a valid birth certificate for the U.S. President is extremely significant and important.

Taitz together with another attorney represented plaintiffs, among them former Candidate for President from the American Independent Party in 2008 election, former UN ambassador Allen Keyes, who lost both the Senate election in Illinois and the Presidential Election. Actually, electors for Allen Keyes filed legal challenges against the Secretary of State in Mississippi and in Hawaii. Individuals, who acted as agents for Obama, as his surrogates have unleashed retaliatory attacks, defamatory attacks, harassment, financial attacks on Taitz, on Keyes, on other clients and co-plaintiffs, who were challenging Obama's legitimacy and

seeking to expose and prosecute fraud and forgery which are the main premise of this RICO. Those attacks were highly foreseeable considering the acts by the Defendants.

If not for fraud in defendants certifying a forgery and claiming it to be a true and correct copy of a valid birth certificate, Obama would not be in the position of power, his operatives would not have launched such attacks, which caused financial damages in the form of lost earnings. Some of the individuals who are Obama supporters vandalized Taitz car, repeatedly vandalized her web sites, electronic mail accounts. Due to the fact that Fuddy and Onaka defrauded elections officials and citizens, they believed Obama to be legitimate and they attacked Taitz for supposedly bringing frivolous actions against him and challenging him. Taitz suffered hundreds of thousands of dollars in damages in lost income and due to vandalism and defamation.

11. SERVICE OF PROCESS WAS SUFFICIENT

Defendants were served twice at the Department of Health and at the office of the Attorney General of Hawaii. Due to the fact that the individuals are not allowed to go inside the department and serve the Director of Health and the Registrar personally, process server inquired the front office assistant, as to who can accept legal papers for Fuddy and Onaka. He was instructed to live the papers with the

receptionist at both the Department of Health and at the office of the Attorney General of Hawaii. Personal service is excused due to impossibility. Substitute service would suffice. Defendants clearly were served and made an appearance in this case. They were served. If the court finds that the service of process was not perfected, Taitz can serve them again within a period of time set by the court, however the facts of the case show that the defendants were served.

In regards to the argument that the service was too late, this argument fails yet again for following reasons:

a. the complaint and exhibits were served on the defendants in April, immediately as case was filed in the state court. Before Plaintiffs could obtain summons from the state court, defense removed the case to the federal court.

b. motion to remand was filed

c. until the motion to remand was heard the time to serve did not toll, as the plaintiff did not know, what summons to issue: State Court summons or Federal Court summons.

d. after Honorable Judge Wingate ruled that the case will proceed in the Federal Court, the summons were issued on the date of the hearing and the defendants were served within the time allotted.

Conclusion

Motion to dismiss should be denied.

Respectfully submitted,

/s/ Dr. Orly Taitz, ESQ

EXHIBIT 1

AFFIDAVIT

I Henry Blake, being first duly sworn, do hereby state under oath and under penalty of perjury that the following facts are true:

I. I am over the age of 18 years old and am a resident of Tennessee. The information contained in this affidavit is based upon my own personal knowledge and, if called as a witness, I could testify competently thereto. I attained higher education as follows: BS Mechanical Engineering, MS & PhD in Engineering Mechanics. I have over 40 years experience with a variety of computers including: Personal Computers, Work Stations, Mainframes and Super Computers.

II. I have general knowledge of foregoing legal filings in the Federal District Court Case 3:12-cv-00280-HTW-LRA and have specific knowledge of the digital images of copies of President Obama's purported Long-Form Certificate of Live Birth (LFCOLB) appearing within the case filing documents.

III. I have examined the two image copies of the purported LFCOLB which exist as digital electronic page documents, namely

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05/04/2012 15 MOTION for Judgment on the Pleadings by Democrat Party of Mississippi (Attachments: # 1 Exhibit LFBC from White House, # 2 Exhibit COLB from Campaign, # 3 Exhibit DOH Verification re White House BC, # 4 Exhibit Hawaii Gov April 27 2011 News Release, # 5 Exhibit DOH White House Correspondence, # 6 Exhibit DOH 08-93 News Release, # 7 Exhibit DOH 09-063 News Release, # 8 Exhibit CDC Report re Birth Certificate History)(Begley, Samuel) (Entered: 05/04/2012) [.pdf (page 8)]

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and

06/06/2012 35 MOTION to Supplement Counsel for MDEC's Response 30 in Opposition to Plaintiff Taitz's Motion for Sanctions 25 re 30 Response to Motion, by Democrat Party of Mississippi (Attachments: # 1 Exhibit MDEC Counsel Request to HI DOH for Verification of President Obamas Hawaiian Birth Cert, # 2 Exhibit Hawaii DOH Verification of President Obamas Hawaiian Birth-Issued May 31 2012)(Begley, Samuel) (Entered: 06/06/2012) [.pdf (page 11)]

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see also court document

10513240131.pdf 05/26/2012 Re: Request for Verification of Vital Records Pursuant to Hawai' i. Rev. Stat. § 338-14.3 and 338-1 8(g)(4) [.pdf (page 4)]

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and which were filed by the Mississippi Democratic Executive Committee (MDEC), as well as the original PDF image of President Obama's LFCOLB, which was posted on the White House web site on Apr. 27, 2011,

http://www.whitehouse.gov/sites/default/files/rss_viewer/birth-certificate-long-form.pdf

and have found significant alterations were made to the original White House LFCOLB PDF image file. Specifically the copy of the LFCOLB appearing in the second and third documents above differ significantly from the copy appearing in the first document and from the original copy posted on the White House website.

Page 8 of the first document above is nearly identical to the white House LFCOLB PDF image file. Page 11 of the second above document is identical to page 4 of the third document. For convenience I will denote the two copies that I recently examined as (page 8) and as (page 4/11).

IV. The alterations made to the White House LFCOLB PDF image to create the (page 8) image copy are incidental.

1. The (page 8) image copy is otherwise identical to the white House image except for the "Case Label" added at the top margin.
2. Only the Case label is selectable by mouse and cursor on (page 8)
3. The (page 8) image copy was altered to make the (page 4/11) image copy.

V. I found that the alterations to the (page 8) image copy to create the (page 4/11) image copy are extensive as follows:

1. A second Case Label was added
2. The (page 8) image was flattened, rasterized and green color was added
3. The color of all text was changed from near-Black to Black-Green
4. Numerous form lines were repaired or replaced entirely
5. The basket-weave background was softened and touched up
6. Specific words were made selectable by mouse and cursor in Adobe Reader
7. Hidden editing was applied (see 8.- 11. below):
8. Ten Line Objects were added
9. Two Green Color objects were added
10. Two Broad-line Strikeouts were applied, one to the words "Kapiolani Maternity &

Gynecological", and the other to the word "August"

11. Seven Rectangular Black Redaction Box Objects were added which altogether cover nearly all of the typed text

VI. The remaining typed, stamped (or form) words left unstruck or unredacted and appearing on the hidden image of (page4/11) are:

1. Both Case Labels
2. State of Hawaii Certificate of Live Birth Department of Health
3. 61 10641 (file number 151 is redacted)
4. Barack Hussein Obama, II ("X" in single-birth box)
5. Honolulu (in two places)
6. 6085 Kalaianaole Highway
7. Labels for ten form-boxes
8. State Registrar's date and signature stamps

VII. Words which can be selected on (page 4/11) by mouse and cursor in Adobe Reader are:

1. Both Case Labels
2. State of Hawaii Certificate of Live Birth Department of Health
2. 61 10641 (File number 151 is non-selectable)
3. Barack Hussein Obama, II
4. Honolulu
5. Kapiolani Maternity & Gynecological Hospital
6. 6085 Kalanianaole
7. Hussein Obama
8. University
9. State Registrar's date and signature stamps.

I attest to this under penalty of perjury.

Henry Blake, PhD

Henry Blake, PhD

MICHELLE DUNCAN
STATE OF TENNESSEE
NOTARY PUBLIC
ANDERSON COUNTY
My Comm. Expires 2-23-26

Michelle Duncan

EXHIBIT 2

Democratic Party of Hawai'i

404 Ward Avenue, Suite 201
Honolulu, Hawai'i 96814
Voice (808) 596-2980 Fax (808) 596-2985
http://www.hawaiidemocrats.org
e-mail: democrat@hawaiidemocrats.org

OFFICIAL CERTIFICATION OF NOMINATION

State of Hawaii

THIS IS TO CERTIFY that the following candidates for President and Vice-President of the United States are legally qualified to serve under the provisions of the United States Constitution and are the duly chosen candidates of both the state and the national Democratic Parties by balloting at the Presidential Preference Poll and Caucus held March 7, 2000 in the State of Hawai'i and by acclamation at the National Democratic Convention held August 14 – 17, 2000 in Los Angeles, California.

For President of the United States

Al Gore
350 Cockeville Highway
Carthage, Tennessee 37030

For Vice President of the United States

Joe Lieberman
20 Alston Avenue
New Haven, Connecticut 06515

IN TESTIMONY WHEREOF we have hereunto set our hands on this 8th day of September, 2000.

Alfred K. Laubach
2222 Kuhio Street, #503
Honolulu, Hawai'i 96826
Vice Chair, Democratic Party of Hawaii

Curtis Apana
2012 Citron Street, #A03
Honolulu, Hawai'i 96826
Secretary, Democratic Party of Hawai'i

EXHIBIT 3

Democratic Party of Hawai'i
770 Kapiolani Boulevard, Suite 115
Honolulu, Hawai'i 96813
Phone: (808) 596-8920
Fax: (808) 592-8925
Email: statechair@hawaiidemocrats.org
Website: hawaiidemocrats.org

OFFICIAL CERTIFICATION OF NOMINATION

State of Hawai'i

THIS IS TO CERTIFY that the following candidates for President and Vice-President of the United States are legally qualified to serve under the provisions of the United States Constitution and are the duly chosen candidates of both the state and the national Democratic Parties by balloting at the Presidential Preference Poll and Caucus held May 30, 2004 in the State of Hawai'i and by acclamation at the National Democratic Convention held July 26, 2004 in Boston, Massachusetts.

For President of the United States

John Kerry
19 Louisburg Square
Boston, Massachusetts 02108

For Vice President of the United States

John Edwards
3323 Alleghany Drive
Raleigh, North Carolina 27609

IN TESTIMONY WHEREOF, we have hereunto set our hands on this 31st day of August, 2004.

Brickwood M. Galuteria
770 Kapiolani Boulevard, Suite 115
Honolulu, Hawai'i 96813
Chair
Democratic Party of Hawai'i

Edmund Aczon
770 Kapiolani Boulevard, Suite 115
Honolulu, Hawai'i 96813
Secretary
Democratic Party of Hawai'i

EXHIBIT 4

Democratic Party of Hawaii
1050 Ala Moana Blvd. #2660
Honolulu, HI 96814
Phone (808)596-2980
Fax (808)596-2985
Email: dphstaff@inbox.com
Website : www.hawaii.democrats.org

OFFICIAL CERTIFICATION OF NOMINATION

State of Hawai`i

THIS IS TO CERTIFY that the following candidates for President and Vice-President of the United States are legally qualified to serve under the provisions of the national Democratic Parties balloting at the Presidential Preference Poll and Caucus held on February 19th, 2008 in the State of Hawaii and by acclamation at the National Democratic Convention held August 27, 2008 in Denver, Colorado.

OFFICE OF ELECTIONS '08 AUG 28 A11:40

For President of the United States

Barack Obama
P.O. Box 8102
Chicago, IL, 60680

For Vice President of the United States

Joe Biden
1209 Barley Mill Rd.
Wilmington, DE 19807

IN TESTIMONY WHEREOF we have hereunto set our hands on this 27th day of August, 2008.

Brian E. Schatz
Chair
Democratic Party of Hawaii
1050 Ala Moana Blvd. #2660
Honolulu, HI 96814

Lynne Matusow
Secretary
Democratic Party of Hawaii
1050 Ala Moana Blvd. #2660
Honolulu, HI 96814

CERTIFICATE OF SERVICE

I, Lila Dubert attest that I served all parties in the attached distribution list with foregoing pleadings on the 11.08.2012

/s/ Lila Dubert

Taitz et al v. Democrat Party of Mississippi et al
Assigned to: District Judge Henry T. Wingate
Referred to: Magistrate Judge Linda R. Anderson
Case in other court: Circuit Court of Hinds County, Ms, 251-12-00107 CIV
Cause: 18:1962 Racketeering (RICO) Act

Date Filed: 04/24/2012
Jury Demand: None
Nature of Suit: 470 Racketeer/Corrupt Organization
Jurisdiction: Federal Question

Plaintiff

Dr. Orly Taitz
Esq.

represented by **Orly Taitz**
29839 Santa Margarita Parkway, Ste. 100
Rancho Santa Margarita, CA 92688
949-683-5411
Email: Orly.Taitz@gmail.com
PRO SE

Plaintiff

Brian Fedorka

represented by **Brian Fedorka**
812 Shiloh Dr.
Columbus, Ms 39702
PRO SE

Plaintiff

Laurie Roth

represented by **Laurie Roth**
15510 E. Laurel Rd
Elk, WA 99009
PRO SE

Plaintiff

Tom MacLeran

represented by **Tom MacLeran**
1026 Deer Ridge RD
Kingston Springs, TN 37082
PRO SE

350 Market Str.
Highspire, PA 17034
PRO SE

V.

Defendant

Democrat Party of Mississippi represented by **Samuel L. Begley**
BEGLEY LAW FIRM, PLLC
P. O. Box 287
Jackson, MS 39205
601/969-5545
Fax: 601/969-5547
Email: sbegley1@bellsouth.net
ATTORNEY TO BE NOTICED

Scott J. Tepper - PHV
GARFIELD & TEPPER
1801 Century Park East, Suite 2400
Los Angeles, CA 90067-2326
310/277-1981
Fax: 310/277-1980
Email: scottjtepper@msn.com
PRO HAC VICE
ATTORNEY TO BE NOTICED

Defendant

Secretary of State of Mississippi represented by **Harold Edward Pizzetta , III**
OFFICE OF THE ATTORNEY GENERAL
P.O. Box 220
Jackson, MS 39205-0220
601/359-3680
Email: hpizz@ago.state.ms.us
ATTORNEY TO BE NOTICED

Justin L. Matheny
MISSISSIPPI ATTORNEY GENERAL'S OFFICE
P. O. Box 220
Jackson, MS 39205-0220
601-359-3825
Fax: 601-359-2003
Email: jmath@ago.state.ms.us
ATTORNEY TO BE NOTICED

Defendant

Barak Hussein Obama represented by **Samuel L. Begley**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Scott J. Tepper - PHV
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Defendant

Obama for America represented by **Samuel L. Begley**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Scott J. Tepper - PHV
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Defendant

Nanci Pelosi represented by **Samuel L. Begley**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Scott J. Tepper - PHV
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Defendant

Dr. Alvin Onaka represented by **Walter W. Dukes**
DUKES, DUKES, KEATING & FANECA, PA - Gulfport
P.O. Drawer W (39502)
2909 13th Street, 6th Floor
Gulfport, MS 39501
(228) 868-1111
Email: walter@ddkf.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Loretta Fuddy represented by **Walter W. Dukes**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Michael Astrue

Defendant