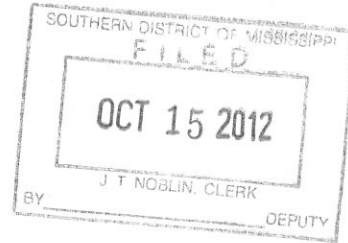


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PRO SE PLAINTIFF IN MS



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 THE SECRETARY OF STATE

A motion to dismiss the complaint on the pleadings was filed by two defendants: Secretary of State and Democratic Party of Mississippi. Motions to dismiss are very similar, nearly identical. As FRCP allows one only 25 pages per brief, instead of wasting the court's time and limited resources on two identical oppositions, plaintiffs are writing one more complete 50 page brief relating to both parties and pleading part 1 of the brief in the Opposition to the Secretary of State and including part one by reference in the Opposition to the Democratic Party and they are pleading fully part 2 of the brief in the opposition to the Democratic Party and including it by reference in the Opposition to the Secretary of State.

reasons:

3. Plaintiffs followed the requirements of the elections challenge and brought a proper challenge for both primary and general election allowed under the Mississippi law

4. In the same breath defendants are claiming that Plaintiffs filed their complaint too early and too late, which is impossible. Defendants are claiming that the two challenges filed by the Plaintiffs were too early as the cases was not ripe yet, as Obama was not nominated yet. To be on the safe side and out of abundance of caution Plaintiffs have renewed their challenge for the third time after Obama was nominated on September 6, 2012.

5. Plaintiffs provided a lengthy complaint and exhibits showing an elaborate racketeering scheme to defraud American people, where defendants were part and parcel of a cover up of elections fraud committed by a citizen of Indonesia and possibly still citizen of Kenya Barack Hussein Obama to get on the ballot, while using last name not legally his, a forged birth certificate, forged Selective Service certificate and a fraudulently obtained Social Security number from a state where he never resided and which was not assigned to him according to E-Verify and SSNVS. Plaintiff Taitz, who is both a doctor and an attorney and was a candidate for public office suffered hundreds of thousands of dollars of damages due to campaign of harassment, intimidation and persecution by a number of individuals: named defendants and John Does, who were complicit in this RICO conspiracy

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6. "Each court has the power to conduct an independent investigation in order to determine whether it has been the victim of fraud," *Chambers v NASCO*, 501 U.S. 32, 44 (1991). This court has been a victim of fraud, as the defendants not only were part and parcel of the fraud committed by Obama, they were seeking to use this court in legitimizing a forged birth certificate, they were seeking a judicial notice by this court, claiming that the birth certificate is authenticated, when they had in front of them ample evidence that the birth certificate in question is a forgery. Two attorneys for the Democratic Party have breached their ethical obligation to the tribunal by trying to use this tribunal for authentication of a forgery. At September 24, 2012 hearing attorney Tepper continued the same pattern of fraud on the court, claiming that he did not seek authentication and was caught defrauding the court when Plaintiff Taitz read to the court Tepper's pleadings, where he specifically stated that he is seeking authentication of Obama 's birth certificate and his birth in Hawaii. Based on Chambers v Nasco 501 U.S. 32 (1991) this court has to use its power and conduct investigation of fraud committed by the Defendants in covering up Obama's forged IDs as well as fraud committed by the defendants' attorneys. Moreover, aiding and abetting a foreign national in usurping the U.S. Presidency and the position of Commander in Chief while using forged IDs may be construed as engaging in treason and in Misprission of Felonies under 18U.S.§4, which makes it even more urgent for this court to conduct an independent investigation at the earliest convenience.

/s/ Orly Taitz, ESQ 10.12.2012

## **BRIEF IN OPPOSITION TO MOTION ON THE PLEADINGS**

**In motion for Judgment on the pleadings the burden of proof is not on the Plaintiffs, the burden of Proof is on the defense.**

Based on FRCP initial pleading has to achieve 3 following goals:

### **RULE 8. GENERAL RULES OF PLEADING**

(a) CLAIM FOR RELIEF. A pleading that states a claim for relief must contain:

(1) a short and plain statement of the grounds for the court's jurisdiction, unless the court already has jurisdiction and the claim needs no new jurisdictional support;

(2) a short and plain statement of the claim showing that the pleader is entitled to relief; and

(3) a demand for the relief sought, which may include relief in the alternative or different types of relief.

(1) Jurisdiction of the court was already established. (3) a demand for relief is clear as well: declaratory and injunctive relief regarding defendant Obama and



damages sustained in RICO. So the question is: did the Plaintiffs provide a plain statement of the claim showing that the plaintiffs are entitled to relief?

In a motion for Judgment n the pleadings, the burden is not on the Plaintiffs, the burden is on the Defense to show that in the light most favorable to Plaintiffs, they (the Plaintiffs) failed to present any colorable claim on any of the causes of action, which would entitle them to conduct further discovery. Plaintiffs assert that Defendants utterly failed to meet their burden of proof and the motion has to be denied, the case should proceed into discovery.

**1. A CLAIM THAT THE PLAINTIFFS DID NOT PAY A BOND IS WITHOUT MERIT.**

Plaintiffs paid a \$300 bond, which is noted on the docket. Additionally, Defense is bringing forward an argument that Plaintiffs did not pay \$300 bond twice: for the Primary and for the General election. Plaintiffs responded to this previously, explaining that even though a valid challenge was filed in the Circuit court over a month before the primary and it had to be heard expeditiously, the presiding judge in the circuit court sat on the complaint for over a month and did not respond and did not contact the parties until one day after the primary election. Plaintiffs never got a hearing for the primary and therefore sought to apply the bond already paid for the general election. If the court feels that Plaintiffs have to pay the bond

twice, even though they are getting only one adjudication, Plaintiffs will be willing to post an additional \$300 bond to cure the deficiency, if such deficiency exists.

## **2.Plaintiffs filed a timely primary challenge.**

The deadline for filing the challenge was January 24th. Plaintiff Taitz faxed the challenge to the Democratic Party, but they claimed that they did not get it. Taitz filed it by certified mail and it arrived in the PO Box for the Democratic Party on the 23rd of January and according to the (Exhibit 2 Certified mail receipt and tracking) Democratic Party it was picked up on the last day of the challenge, January the 24th. additionally, to be on the safe side, one of the supporters of Taitz forwarded the challenge by the federal Express, which was also received on the 24th. Mississippi Democratic Party (Hereinafter MSDP) got the Petition for elections challenge by two means: certified mail and federal express on the 24th of January. Taitz counted 15 days from the day of receipt, not counting the day of receipt, which fell on the February 9th. Due to the fact that MSDP did not respond until February 9th in the allowed 15 days, Taitz filed a complaint in the circuit court by mailing it through the Federal Express on February 9th (Exhibit 3, Federal Express receipt).

After Judge Coleman did not take any action until after the Primary, Taitz properly contacted MSDP through their attorney Sam Begley and advised them that since

her challenge was not heard before the primary, she will file an amended complaint in regards to the General election. Since MSDP failed to schedule any hearing on the matter yet again, Taitz filed an amended complaint, which reflected the fact that she was completely deprived of her Constitutional right for redress of grievances before the primary, and she is now renewing this complaint in regards to the general election. Defense is stating that the amended complaint was not timely because it was supposed to be filed on the 15th, but it was docketed 4 days later on the 19th of April. Looking at the first Amended complaint, which is filed with the documents removed from the Circuit court, it was signed by Taitz on April 12th and was mailed by her assistant Lila Dubert on April 13th, before the deadline of 15th, however due to the fact that Taitz is in California, it took a few days for the mail to arrive and for the court to docket the complaint, however it was mailed on April 13th before the deadline. As the court can see all of the requirements were fulfilled. Even arguendo, if any requirement would not have been fulfilled, it would not change the fact that Defendants are claiming that the challenge was too early, as Obama was not nominated by his party yet. As such Plaintiffs forwarded to MSDP and the Secretary of State (Hereinafter "SOS") a third, renewed complaint, which is filed after the nomination of Obama by the Democratic Party USA on September 6 during the nominating convention. (Exhibit 3). As such the complaint is timely and ripe for adjudication of the merits



of the challenge, namely Obama's use of forged IDs and RICO conspiracy surrounding it.

**3. A CHALLENGE TO THE PRIMARY ELECTION IS NOT MOOT, AS IT WAS FILED TIMELY AND THE RESULTS OF THE PRIMARY CAN BE INVALIDATED RETROACTIVELY DUE TO FRAUD COMMITTED.**

Additionally, the delay was not caused by the Plaintiffs but by the Presiding judge in the Circuit court, Judge Coleman, who kept the urgent elections challenge complaint for over a month and did not schedule a hearing and did not even contact the parties until after the election was over. The fact that the presiding judge refused to act, created an impossibility, which excuses lack of judicial determination before the primary.

4. Defendants, Democratic party of MS is saying ". The Plaintiffs' challenge to President Obama's appearing on the November 2012 general election ballot in **Mississippi is time barred** under *Miss. Code Ann.* § 23-15-963 because the Plaintiffs failed to lodge their election contest petition for judicial review in the Circuit Court of Hinds County in a timely manner and, moreover, none of the Plaintiffs filed an election contest petition with the MDEC, or with any other election officials, and did not post a \$300.00 cost bond with two sureties, as required by each statute. Additionally, the Plaintiffs' challenge to President Obama appearing on the November 2012 general election ballot is **barred by the doctrine**



**of ripeness because President Obama has not yet been selected as the Democratic Nominee for President of the United States. "**

So, in the same breath Defendants are saying that the challenge was too late and also too early, as the complaint was filed before the Democratic National convention and he is not a Democratic Party nominee yet. based on their unsinkable logic we are just right time wise.

As defense is stating that the challenge was too early, not ripe, Plaintiffs renewed it. Exhibit 1, renewed challenge against Candidate Obama sent by the Plaintiffs to the attorney for the MSDP Sam Begley. Mr. Begley responded with a "go away " letter. (Exhibit 1 "Go away" letter from Sam Begley and third challenge to Obama signed by Orly Taitz and Brian Fedorka and joined by several other petitioners, residents of Mississippi, among them Petitioner/Plaintiff, member of the Pearl River County republican Central Committee, Emil Kleinfeld) "Go away is not a legal argument". As such, the deficiency of ripeness was cured, third challenge was filed, there can be no further challenge to standing.

**5. THE ISSUE OF PROPER TIMING TO BRING A CHALLENGE HAS TO BE REVIEWED BY THIS COURT, AS THERE ARE CONFLICTING COURT DECISIONS ON THIS ISSUE**

Defendant MSDP is stating that the complaint is both too late and too early. At issue is the fact that the courts simply refused to address the issue of Obama's

eligibility and were looking for any possible excuses not to hear the issue on the merits. For example, a case brought by the defense Keyes v Bowen vividly shows how judges were so anxious to find excuses to Obama's lack of eligibility and forged IDs, that often they came up with conflicting excuses. In the Superior court of CA in Keyes v Bowen 34-2008-8000009G Judge Kenney found that the case was brought too late, that there were latches, as it was brought after the election, however the Court of Appeals ruled that the case brought after the election but before the confirmation by the Congress is not ripe yet, which of course is contradictory to lower court decision on the same case. Next, Taitz brought another case on behalf of the same plaintiff, ambassador Alan Keyes, who ran against Obama both for the U.S. Senate from Illinois general election in 2004 and in the Presidential election, as a candidate of American Independant Party on 2008, Keyes v Obama 9-cv-082 Judge David O Carter in the US District court. Judge Carter ruled that the case brought after inauguration was brought too late. Now, Taitz and over 200 other citizens brought multiple challenges during the Primary. A number of courts ruled that the cases are not ripe yet as Obama has not been nominated by his party. One of such cases was Farrar et al v Obama 2012 CV 211398, when Judge Susan Wright in Superior Court of Fulton county GA ruled that she does not have jurisdiction until Obama is nominated. Similar decision was made by judge Terry Lewis in Florida Voeltz v Secretary of State of Fl 2012 CV

211398. So, Plaintiffs could not have any challenges to Obama heard on the merits for 4 years of his presidency and during the primaries, but when they tried to renew their challenges during the general election, they were told that they already filed challenges during the primaries and new challenges will not be entertained or that it is too late. As a result the U.S. citizens were de facto reduced to a level of slaves and were forced into existence under the usurpation of Presidency without a recourse. The case at hand is similar to others, as the defense here is stating the same: too late and too early. Decisions by some judges, stating that the controversy is not ripe until the nomination contradict multiple statutes in MS and around the country. Such manipulations by the judiciary caused an underlying current of anger and resentment against the establishment and judiciary and this current can spill out into a tide of revolt until and unless one judge with the strength of character and integrity will finally hear this case on the merits. In over four years only one judge attempted to hear this case on the merits, judge Malihi in the Administrative court of GA, however according to Judge Malihi administrative court has very limited jurisdiction. Judge Malihi did not sign letters Rogatory to the Superior Court of Hawaii to seek reciprocal subpoena enforcement and production of Obama's original birth certificate, did not find Obama in contempt of court, when Obama and his attorney decided to boycott the court and not show up at the hearing, and as the result the hearing was very limited and the original IDs are still



sealed, were not seen by any court or judge, while alleged copies of Obama's papers were shown to be forgeries or fraudulently obtained papers based on affidavits of multiple experts and members of law enforcement. As such a mechanism of timely adjudication of such claims has to be established by this court and the case at hand is ripe for adjudication on the merits.

**DECISION BY CA COURT OF APPEALS IN KEYES V BOWEN  
CONTRADICTS THE POSITION OF THE DEMOCRATIC PARTY OF MS**

Defense brings forward one decision, which is opposite to the Defendant's position and completely defied any human logic, that is a decision by the California court of Appeals in Keyes v Bowen c-062321, that actually stated "Any investigation of eligibility is best left to each party, which presumably will conduct the appropriate background check..."

a. based on this decision Defendant MSDP just indicted themselves, as they did not conduct any background check of Obama and covered up all evidence of forgery submitted to them. MSDP allowed Obama on the ballot, knowing that Obama is not even his legal name and that in his school records from Indonesia he is listed under the last name Soetoro, his step father's last name and Indonesian citizenship



and in his mother's passport records he is listed under the name Soebarkah. A minimal background check would have revealed that Obama is a fraud with forged IDs.

b. The reason the decision by the CA court of Appeals in *Keyes* is so absurd and so upfront to Human logic, is because political parties are just that, political, partisan, private organizations. Parties are rarely subjected to any scrutiny. Mississippi is actually one of very few states or possibly the only state in the union, where according to the state statutes a party can be held accountable for its' actions. In most states there are no statutes that would provide for any statutory accountability for the party.

Additionally it defies logic to believe that Parties would do anything. Why so? Simply because a party would not want to rock the boat and speak up against the candidate that they have chosen. California state court of Appeals provided further caveat "Any investigation of eligibility is best left to each party, which presumably will conduct the appropriate background check or risk that its nominee's election will be derailed by an objection in Congress..." however congressmen are stating in their letters sent to constituency, that they are not judges, not legal scholars and this matter needs to be determined by the courts. Taitz received a letter from Senator McCain (Exhibit 7) , who ran for Congress against Obama and had the

most perfect standing, but claimed that he cannot do anything on this issue, as it is up to the judiciary. It states:

Dear Orly:

I want to take this opportunity to thank you for your letter of January 8th 2010 regarding a judicial matter.

Unfortunately, your situation appears to involve litigation or may require litigation under the judicial system. Members of Congress are precluded from inquiring into matters pending before the courts by provisions of the Constitution that mandate a separation of powers between the Judicial, Executive, and Legislative branches. I feel that my involvement in your present situation may be viewed as an interference in the judicial process.

Similar letter was written by Senator Sessions (exhibit 8). So, one can see that the system is totally corrupted: the judges and the congressman are simply kicking the can and coming up with excuses and pointing fingers at each other, while the citizens are deprived of their right to participate in lawful elections.. Moreover, when is the last time congress brought an objection to any Presidential candidate? It is hard to find a case in the last 200 years or ever. Most congressman are stating that they are afraid to bring an objection, as it would invalidate votes of half of the population, on the other hand, when citizens are trying to bring this issue to judicial resolution before the vote, they are told that it will be resolved later by the Congress.

**6. DECISION IN KEYES V BOWEN IS A NEW INVENTION BY THE COURT, WHICH GOES AGAINST THE 10TH, 9TH, 1ST, 5TH, 14TH AND**

**20TH AMENDMENT , AGAINST 232 YEARS OF THE US HISTORY AND  
PRECEDENTS OF FULANI, BUSH V GORE AND CLEAVER**

Decision in Keyes v Bowen seem to be specifically crafted to aid and abet Obama, it is upfront to all of the decisions in the previous 230 years of the U.S. history. In Fulani v Hogsett 917 F2d 1028 the 7t circuit ruled that a citizen by name Lenora Fulani can sue both Presidential Candidates: Bush and Dukakis, she has standing. 7th Circuit did not come up with a ridiculous decision that it is best left to parties and Congress to rule on eligibility. Bush v Gore 531 U.S. 98 (2000), and Cleaver v Jordan Calif. Supreme Court minutes, Sep. 26, 1968, case no. 7838, not reported confirmed that the courts can adjudicate Presidential elections contests. Moreover, the decision in Keyes is so tyrannical that it turns this Constitutional Republic into a dictatorship stripping the states of their 10th amendment rights, stripping the citizens of their 9th amendment rights and stripping the citizens of their first amendment right for redress of grievances, for

Political free speech for equal protection. and it seems to strip all of these rights without any due process guaranteed in the 5th amendment.

Why California Court of Appeals in *Keyes* came up with a decision that went against all precedents and state and Federal law? Most probably because this is the only excuse they could find, could pull out of a hat, out of thin air. Keyes had perfect standing and Obama had and still has a perfect lack of any valid IDs, so the only cover up the court could find, was this science fiction decision that only Congress can challenge a person, who ran for Presidency by fraud and with forged IDs.

**7. THIS COURT HAS JURISDICTION TO BAR THE SOS FROM PLACING ONE'S NAME ON THE BALLOT OR ISSUING INJUNCTION PREVENTING CERTIFICATION OF VOTES.**

In the motion to dismiss on the pleadings, SOS states:"As a matter of law, they are not entitled to any injunction barring the Secretary of State from performing his



statutory duties in connection with the general election. No courts have jurisdiction to hear any such claims for relief."

This is a shocking statement, void on its face. Often courts: both state and federal issue rulings affecting general elections and duties of the Secretaries of State. In the state of California

Just in 2010 US District Judge ordered stay of certification of elections for the U.S. senate pending resolution of all Constitutional challenges.

"Therefore, for the reasons articulated above and by Defendants

in their Motion to Dismiss for Lack of Federal Question Jurisdiction or in the Alternative to Abstain at Docket 17, which Plaintiff responded to at Docket 20, this matter is hereby **STAYED** so that the parties may bring this dispute before the appropriate State tribunal. The Court shall retain jurisdiction pursuant to Pullman and will remain available to review any constitutional issues that may exist once the State remedies have been exhausted. In order to ensure that these serious State law issues are resolved prior to certification of the election, the Court hereby conditionally **GRANTS** Plaintiff's motion to enjoin certification of the election. If an action is filed in State Court on or before **November 22, 2010**, the results of this election shall not be certified until

the legal issues raised therein have been fully and finally resolved." Judge Beistline, *Miller v Campbell* 10-cv-252 USDC Alaska. In **Bush v. Gore**, 531 U.S. 98 (2000) Supreme Court ordered the Secretary of state of Florida to stop the count of the ballots in the Presidential election. Moreover, in California in a case, *Cleaver v Jordan*, Calif. Supreme Court minutes, Sep. 26, 1968, case no. 7838, not reported Secretary of state of California Frank Jordan removed from the ballot a candidate for President Eldridge Cleaver, as the Secretary of State of California checked his identification papers, found that he was only 34 years old, not qualified for the presidency and removed Jordan from the ballot. In that case Cleaver appealed to the Superior Court of CA, later to the Supreme court of California and SCOTUS. Supreme Court of California confirmed that the court has jurisdiction to mandate and decided that the secretary of state had jurisdiction and power to remove from the ballot ineligible candidate. Similarly, a candidate of the new Workers party Roger Calero ran for the U.S. Presidency and a number of Secretaries of State removed him from the ballot due to lack of eligibility. The case did not go to court.

As such the secretary of state has the ability to remove ineligible candidates from the ballot, the courts have an ability to review this decision and issue injunctive and declaratory relief.

## 8. STANDING

MS statutes do not require 23-15-961 and 23-15-963 do not specify that one has to be a resident of the state of MS. There is a reason behind it, as individuals from other states, who are federal whistleblowers might have valid information regarding elections fraud and might be affected by such fraud. Presidential election understandably affects individuals from multiple states. In case of the Plaintiffs, who are dissidents against Barack Obama and Obama regime, elections in each and every state affect them.

As explained, more fully in attached RICO questionnaire, defendants, particularly defendant Taitz, have experienced significant financial damages, as a number of Jane Does and John Does herein, members of the RICO conspiracy have vandalized their cars, heir computers, web sites, e-mail accounts. Jon Does, of a subversive group "Fogbow" and others have manipulated dockets and legal cases in order to derail cases of attorney Taitz. A number of individuals have contacted insurances and patients of doctor Taitz, providing them with incorrect information, telling them that her dental license was taken away in an effort to deprive her of her livelihood and prevent her from having means and resources to fight in court. Taitz suffered damages in an amount estimated in over a million dollars and could bring a legal action in the jurisdiction were some of the members of RICO conspiracy reside.



**PRECEDENTS OF STATE COURTS ALLOWING OUT OF STATE RESIDENTS TO BRING ELECTIONS CHALLENGES.**

Plaintiffs in this case were among multiple plaintiffs who filed elections contests and legal challenges against Obama and elections officials in other states. Specifically, in the State of Georgia, Deputy Chief judge of the Administrative court of GA Michael Malihi heard elections challenge to Obama in the beginning of 2012 Farrar, Roth, Lax, MacLeran v Obama, administrative court of GA OSAH-SECSTATE-CE-: 1215136-60-MALIHI

Counsel for . Judge Malihi granted Taitz pro hac vice and she filed a First amended complaint, where a number of non-residents were suing in GA in elections challenge. Among them were plaintiffs in this case: Leah Lax, Laurie Roth and Thomas MacLeran. Michael Jablonski, attorney for Barack Obama sought to dismiss the case, similarly citing lack of jurisdiction and lack of standing. This motion was denied by the presiding judge. Not only the motion to dismiss was denied, but motion to quash subpoenas was denied as well, and Barack Obama had an obligation to appear in court and provide documents requested. Trial was held on January 26. Ultimately Judge Malihi ruled that the evidence was not convincing enough and provided an advisory opinion to the Secretary of State of Georgia, allowing Obama on the ballot. After trial in Georgia Plaintiffs received more evidence, specifically a sworn affidavit and videotaped press conference of Sheriff



Joseph Arpaio, stating that Obama's birth certificate, Selective Service Certificate and Social Security number represent forgeries. Also, Sheriff Arpaio held several press conferences, where he and his lead investigator Mike Zullo demonstrated to thousands of people in the audience and media, how forgers created Obama's forged IDs. This evidence was provided to this court in the form of a DVD. Based on this evidence and the precedent of *Farrar*, Plaintiffs in this case, who are not residents of Mississippi, reasonably believed and believe that they have standing to proceed. Moreover, based on additional devastating evidence, such as press conference by Sheriff Arpaio, they believe that they can and will win this challenge on the merits. Plaintiffs were damaged not only because of the deprivation of their civil and human rights, but also because of concrete economic damages they suffered and suffer as federal whistleblowers, who blew the whistle on Obama and his accomplices.

Additionally, in 2008 former County, Circuit and Chancery Court Judge of Mississippi, Judge James Bell, as well as three other attorneys from Hawaii, Tennessee and Virginia brought two legal actions in this very court Thomas et al v Hosemann 08-cv-280 and Thomas et al v Hosemann 08-cv-248 MSSD. In this case 28 citizens from different states sued the same Secretary of state of MS, Delbert Hosemann, for Declaratory relief. Incidentally, the lead plaintiff in this case was a resident of California as well. The fact that the case was brought by a former

Mississippi judge, well versed in Mississippi law, was an additional indication for the Plaintiffs, that there is no provision in MS law preventing non-residents from filing an election challenge. Later this case was withdrawn by the plaintiffs, as it went past the electoral college certification time and the state of Hawaii was stonewalling and refusing to provide any information. Today, plaintiffs have gathered more evidence and more information to proceed and succeed in the challenge.

This is part 1 of the opposition. Part 2 of the opposition is provided in the answer to the Democratic Party of MS and is included herein by reference

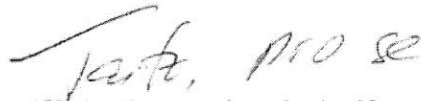
/s/ DR. Orly Taitz ESQ-pro se plaintiff signing on her behalf

I attest that the defendants will be served on October 15, 2012 via electronic Court filing of these pleadings

/s/ Dr. Orly Taitz, ESQ

Hosemann 08-cv-280 and Thomas et al v Hosemann 08-cv-248 MSSD. In this case 28 citizens from different states sued the same Secretary of state of MS, Delbert Hosemann, for Declaratory relief . Incidentally, the lead plaintiff in this case was a resident of California as well. The fact that the case was brought by a former Mississippi judge, well versed in Mississippi law, was an additional indication for the Plaintiffs, that there is no provision in MS law preventing non-residents from filing an election challenge. Later this case was withdrawn by the plaintiffs, as it went past the electoral college certification time and the state of Hawaii was stonewalling and refusing to provide any information. Today, plaintiffs have gathered more evidence and more information to proceed and succeed in the challenge.

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/s/ DR. Orly Taitz ESQ-pro se plaintiff signing on her behalf

I attest that the defendants will be served on October 15, 2012 via electronic Court filing of these pleadings



/s/ Dr. Orly Taitz, ESQ

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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 FOR JUDGMENT ON THE PLEADINGS  
BRIEF IN SUPPORT OF THE MOTION**

**PART 2.**

Part one of the brief is an opposition to Motion for judgment on the pleadings brought by the Secretary of State, which is included herein by reference.

**PRECEDENT OF DEMOCRATIC STATE PARTY OF MISSISSIPPI AND  
MISSISSIPPI STATE DEMOCRATIC PARTY EXECUTIVE COMMITTEE  
V HAILEE BARBOUR, GOVERNOR OF MISSISSIPPI, JIM HOOD,**



**ATTORNEY GENERAL OF MISSISSIPPI AND ERIC CLARK,**  
**SECRETARY OF STATE 4:06 CV29-P-B SHOWS THAT NOT ONLY**  
**PLAINTIFFS HAVE STANDING, THEY HAVE A VERY HIGH**  
**LIKELIHOOD OF SUCCEEDING ON THE MERITS**

Not long ago, in 2006 the defendant herein, Democratic Party of MS, sued the secretary of state, as well as governor and Attorney general, claiming that elections laws existing on the books were unconstitutional. what they were claiming, wasn't actual fraud, but potential fraud. Democratic Party claimed that there was a possibility of fraud in the primaries where people, who are not members of the Democratic Party would vote in the Democratic Primary. They were claiming that potentially someone, who is not a Democrat, someone, who is not a citizen of Mississippi might vote in the Democratic primary, as elections laws were vague and they demanded to find existing elections law unconstitutional and were seeking a mandamus, an order of the court directing the State of Mississippi to change its existing laws in order to allow party preregistration and limiting primary voting only to individuals who are pre-registered with the party. U.S. District Judge for the southern District of Mississippi, Hon.Allen Pepper ruled in favor of the plaintiffs and retained the jurisdiction over the case for some time in order to make sure that the elections law was changed and that the changes were according to the directions of the court.

It is interesting that in 2006 in MS Democrats were trying to prevent what they seem to be doing in other states today, when bus loads of people are travelling from deep blue states of California, New York and Illinois to swing states of Nevada, Florida and Ohio and voting and influencing the results of both Primary elections, as well as General elections.

Going back to the 2006 case brought by the Democratic Party of Mississippi Executive Board(MDEC), plaintiffs there were stating, that they want to prevent a potential fraud, meaning people, who are lying, who are not from Mississippi, who are not Democrats from Mississippi should not affect our potential rights and the outcome of our future primaries.

Here in Taitz v Democratic Party, we have the same issue: fraud, elections fraud, identity fraud. The difference is only in that the tables are turned. Plaintiffs are saying: we do not want you, the defendants, to defraud us, we do not want you to submit as a legitimate candidate for President a person who is committing fraud and using forged IDs and a fraudulently obtained Social Security number from a state, where he never resided, we do not want you to use fraud in affecting the National elections. Just as the Democratic party had standing against ordinary citizens from other states, telling them "we do not want you to defraud us", the citizens are telling the Democratic Party and Mr. Obama "we do not want you to defraud us". It is interesting that in Democratic Party of MS et al v Governor and

Secretary of state et al, the damages were hypothetical, future damages. The MDEC was saying that citizens might defraud them in the future. The court ruled that a possibility of fraud in the future will suffice as a violation of the Constitutional rights. Here the plaintiffs are not talking about the future fraud, Plaintiffs are talking about the fraud that happened and ongoing. Defendants were on notice of Obama's use of a forged birth certificate from November 2, 2008, when Thomas v Hosemann was filed and Plaintiffs submitted to this very court a forged Short Form Birth Certificate for Obama as an exhibit with the complaint, fraud continued in January of 2012, when MDEC failed to take any action when Taitz submitted to MDEC some 80 pages of complaint and exhibits, among them sworn affidavits from a Senior Deportation officer John Samson and licensed investigators, all of whom attested to forgery in Obama's IDs, fraud continued, when during the 2012 Democratic National Convention members of the MDEC voted to confirm Obama as a Candidate for the general election, while they had evidence of Obama committing elections fraud. As a results of the actions by the defendants in aiding and abetting fraud, Plaintiffs suffered persecutions, loss of business, were victims of vandalism, harassment and intimidation. Standing of Plaintiffs in this case is much stronger then the standing of MDEC v Governor, Secretary of State in 2006.



2. Even if arguendo this court rules that it cannot proceed against the defendants under the elections law challenge, the case can proceed as a RICO complaint, which does not require a specific time table for a response.

**FROM NOVEMBER 2, 2008 DEFENDANTS WERE ON NOTICE OF FORGERY IN OBAMA'S IDS AND CHOSE TO BE COMPLICIT IN COVER UP**

As stated previously, from November 2, 2008 Defendants were on notice of very troubling evidence of forgery in Obama's IDs. In his case Thomas et al v Hosemann 2:08-cv-00241-KS-MTP former MS Judge James Bell, lead attorney on the case, provided defendants with evidence, showing that the alleged short form birth certificate used by defendant Obama represents a computer generated forgery. specifically, at issue was the fact that the borders of the birth certificate, which are supposed to have specific design, were different from the design used in 2008.

"... That a growing number of questions have arisen in litigation in at least ten (10) states

contesting whether Senator John McCain and Senator Barack Obama are natural born citizens and, therefore, constitutionally eligible to be entrusted with the office of President of the United States. In the litigation against

Senator Obama, allegations were made that he admitted dual citizenship in Kenya and Indonesia, and lack of evidence that he renounced the same, caused a loss of his U.S. Citizenship as a matter of law. Moreover, evidence released by the Obama campaign purporting to be a "Certification of Live Birth" on its face appears to be manufactured and unauthentic. See Exhibit A. This evidence was released to FactCheck.org, an Annenberg related agency which seeks to determine the veracity of certain claims made in public forums. See Exhibit B. One of the many problems with this evidence is that the border design differs from the border designs of other Certifications of Live Birth printed during the same time period. See

Exhibit C. All these questions about both candidates are still unresolved." *id* If the Secretary of State of MS were to exercise due diligence in 2008, when evidence of forgery was submitted, this legal case at hand would not be necessary and plaintiffs, particularly Taitz, would not have to go through the nightmare of four years of persecutions, harassment, intimidation and serious financial losses.

### **3. SECRETARY OF STATE FAILED HIS DUTY REGARDING PRESIDENTIAL PRIMARY BALLOT**

Respondent quotes Code Section 23-15-1089 as the basis for his allegation that the Secretary of State fulfilled his duty in relation to Obama's candidacy.

On the contrary, this statute only strengthens and supports the Petitioner's position.

The statute states" The Secretary of State shall place the name of the candidate upon the presidential preference primary ballot when the Secretary of State **shall have determined** that such a **candidacy** is generally recognized throughout the Unites States or Mississippi as a candidate for the nomination of **President of the United States"** (emphasis added)

Let's look at the construction of the statute.

1. First, it does not state that the Secretary of State shall have assumed or guessed or figured by the tarot cards, it says "**shall have determined**".

While Petitioner Taitz was not born in this country and English is not her first or second language, she never the less believes that there is a big difference between the words assumed or determined. Dictionary on line by Farlex states:

**determined** - having been learned or found or  
determined especially by investigation

undetermined - not yet having been ascertained  
or determined; "of undetermined species"



**determined -**

dictated, set

settled - **established or decided**

**beyond dispute or doubt**

So, the Secretary of State needs to **determine- to establish something beyond dispute or doubt.**

4. What does Mr. Hosemann, the Secretary of State of Mississippi, need to establish, decide beyond dispute or doubt? He needs to establish:

a. that Obama is a candidate for the US Presidency

b. that he is a generally recognized candidate

3. how does one establish beyond dispute or doubt that a person is a candidate for the US Presidency?

What does it mean to be a **candidate**? For example, in order to be a candidate for licensure of a doctor, one needs to have a valid diploma from a medical school and a valid certificate of passing medical boards. When he has those

documents, he can be considered **a candidate** for obtaining a license to practice medicine in Mississippi. Without proper documents he is not a legitimate candidate.

**5. What are the requirements, prerequisites to be a candidate for the US. Presidency?**

According to the Article 2 Section 1 of the U.S. Constitution a candidate has to be :

- a. Natural born citizen
- b. 35 years old
- c. resided in the country for 14 years

**6. How does one establish beyond dispute or doubt that a person is a natural born citizen and at least 35 years old?**

In her complaint Taitz provided an argument that according to the intent of the framers of the Constitution and Minor v Happersett 88 US 162(1875), natural born means born in the country to two citizen parents. Some believe that it means only born in the country regardless of the citizenship of the parents. Even if you assume for the purpose of this discussion the most minimal

requirement of only being born in the country, there is still a **need to establish beyond dispute or doubt that one was born in the country**

7. How does one **establish beyond dispute or doubt** that one is born in the country? By examining candidate's primary identification papers, such as the original long form birth certificate, valid SS-5, valid hospital birth certificate. Taitz has provided with her complaint court transcripts with competent witness testimony which was admitted in court records, showing Obama's birth certificate and Social Security number to be a forgery. She is providing this court with the original signed court transcript with an embossed seal.

Federal Rules of Evidence 1002 require n original document for proof of substances of a writing.

#### **8. RULE 1002. REQUIREMENT OF THE ORIGINAL**

**An original writing**, recording, or photograph is required **in order to prove its content** unless these rules or a federal statute provides otherwise.

#### **RULE 1003. ADMISSIBILITY OF DUPLICATES**

**A duplicate is admissible** to the same extent as the original **unless a genuine question is raised about the original's authenticity** or the circumstances make it unfair to admit the duplicate.



Plaintiffs provided evidence, showing that all the copies represent computer generated forgeries, show specifically that Registrar Onaka is certifying computer generated forgeries as if they were genuine documents created in 1961 using a typewriter. Registrar Alvin T. Onaka is a person of interest in criminal investigation by Sheriff Joseph Arpaio. As such none of the copies can be relied upon.

6. Can the Secretary of State establish beyond dispute or doubt, that a person with a forged birth certificate is a valid candidate for the White House?

No. For the "Big House"-most probably, but not for the White House.

9. As the first prong of establishing that one is a candidate for the U.S. Presidency fails due to lack of valid identification records, the other prong of being recognized throughout Mississippi or US is irrelevant.

Additional argument can be made that common sense would tell one that "candidate generally recognized throughout the U.S. " means recognized as a **legitimate candidate**. After the January 26 eligibility hearing in Georgia and March 1 press conference by sheriff Arpaio in Arizona Obama is **no longer known as a legitimate** candidate. He is known as a fraud, as a criminal, who is using forged documents. Attached links and press releases attest to that. Both January 26 hearing and March 1 press conference were videotaped by all major

networks. So, for that reason alone, respondents argument fails, as Obama is no longer known and a legitimate candidate, but as a fraud, who is kept in office and on the ballot by corrupt governmental officials, AGs, and judges, who were either intimidated, blackmailed or bribed to be complicit in the biggest case of elections fraud, forgery and treason, ever to take place in this country.

There are no precedents, which would be relevant to this case, as normally people do not reach such level of criminality and arrogance, as to assume the top position of power, while using forged documents.

There is a belief that president Chester Arthur might have burnt his identification papers, however it was found that Arthur was born in this country. President Chester Arthur's handicap was only in that possibly his father was not a U.S. citizen yet at the time Arthur was born. In Obama's case not only his father was never a U.S. citizen and Obama was a foreign national with foreign allegiance at birth, but he is also using forged identification papers as proof of his U.S. birth.

10. Respondent brings forward the case Keyes v Bowen, 189Cal. App.4<sup>th</sup> 647(Cal.App. 3 Dist.2010). Keyes is vastly different from the case at hand. If Respondent were to look at the caption of the case, as it was filed in the Superior court of CA, Respondent would see that Taitz was actually the lead

counsel on the case. The difference between Keyes and the case at hand, is that Keyes was filed after the election. Keyes challenged the elected President. Due to the fact that the co-counsel in Keyes, Garry Kreep, left the state prior to the electoral college meeting, the hearing on Keyes was postponed to March of 2009, which was after not only the election, but also after the swearing of the President, the case was dismissed. Requirements in a challenge of the sitting President are different from requirements for challenging a candidate in the primary election, who is seeking to be on the ballot.

Additionaly, standing in this case is statutory. Section 23-15-961, 23-15-963 allows any party to challenge a candidate on the ballot by first lodging a complaint with the party. The same statute provides a party, aggrieved by a negative action or inaction of the party, to file an action challenge with the Circuit court. As the standing is provided by the statute, the argument of lack of standing is without merit.

Based on the precedent of Mississippi State Democratic Party et al v Haley Barbour, governor et al, described above this court has jurisdiction not only to provide the interpretation of the §23-15-01089 **as requiring "determination" based on a reasonable due diligence of eligibility**, but also this court has jurisdiction to find that leaving statute vague, would make it unconstitutional and would mean continued deprivation of civil rights of citizens, deprivation of

their civil right to vote in fair elections, their 14th amendment Equal Protection rights. Just as Judge Pepper in MSDP and MSDEC v Governor et al, instituted a mechanism, that would safeguard the constitutional right of the MSDP, this court has jurisdiction and duty to institute a mechanism which would prevent deprivation of the citizen's civil right to participate in free and fair elections, free of fraud and forgery, a mechanism which would prevent the political party and the secretary of state to simply ignore the evidence of elections fraud and use of forged IDs by Candidate Obama or any other Candidate in the future.

#### **11. RICO PREDICATE ACTS WERE SPECIFIED IN THE COMPLAINT**

Defense claims that RICO was not specified in the complaint. That is not the case. 45 page complaint is describing in detail predicate acts, accomplices and damages suffered by the Plaintiffs. The predicate acts are as follows:

#### **JURISDICTION AND APPLICABLE LAW**

##### **RICO**

Chapter 96 of [Title 18 of the United States Code](#), 18 U.S.C. § 1961–1968

##### **PREDICATE ACTS**

section [1028](#) (relating to fraud and related activity in connection with identification documents),

section [1341](#) (relating to mail fraud),



section [1343](#) (relating to wire fraud),

section [1425](#) (relating to the procurement of citizenship or nationalization unlawfully), section [1426](#) (relating to the reproduction of naturalization or citizenship papers

section [1503](#) (relating to obstruction of justice),

section [1512](#) (relating to tampering with a witness, victim, or an informant),

section [1513](#) (relating to retaliating against a witness, victim, or an informant),  
section

section [1546](#) (relating to fraud and misuse of visas, permits, and other documents)

Mississippi code of 1972 as amended Chapter 021 of  
Title 97

[97-21-5.](#)

Certain instruments deemed  
writings.

**SEC. 97-21-5. Certain  
instruments deemed  
writings.**

Every instrument, partly written and partly printed, or wholly printed, with a written signature thereto, and every signature of an individual, firm, or corporate body, or of any officer of such body, and every writing purporting to be such signature, shall be deemed a writing and a written instrument within the meaning of the provisions of this chapter.

97-21-21.

Destruction, erasure, or obliteration of writing deemed forgery.

97-21-27.

Intent to defraud.

**SEC. 97-21-27. Intent to defraud.**

Whenever, by any of the provisions of this chapter, an intent to defraud is required to constitute a forgery, it shall be sufficient if such intent appear to defraud the United States, any state or territory, and body-corporate, county, city, town, or village, or any public officer in his official capacity, any co-partnership, or any one of such partners, or any real person whatever.

97-21-31.

Parts of several genuine instruments connected to make one instrument.

**SEC. 97-21-31. Parts of several genuine instruments connected to make one instrument.**

When different parts of several genuine instruments shall be so placed or connected together as to produce one instrument, with

intent to defraud, the same shall be forgery, in the same manner as if the parts so put together were falsely made or forged.

97-21-33.

Penalty for forgery.

**SEC. 97-21-33. Penalty for forgery.**

Persons convicted of forgery shall be punished by imprisonment in the Penitentiary for a term of not less than two (2) years nor more than ten (10) years, or by a fine of not more than Ten Thousand Dollars (\$10,000.00), or both; provided, however, that when the amount of value involved is less than Five Hundred Dollars (\$500.00) in lieu of the punishment above provided for, the person convicted may be punished by imprisonment in the county jail for a term of not more than six (6) months, or by a fine of not more than One Thousand Dollars (\$1,000.00), or both, within the discretion of the court.

**SEC. 97-21-35. Pleadings, process and other court papers, licenses, or written**

**instruments generally.**

Every person who, with the intent to injure or defraud, shall falsely make, alter, forge, or counterfeit any instrument or writing being or purporting to be any process issued by any competent court, magistrate, or officer, or being or purporting to be any pleading or proceeding filed or entered in any court of law or equity, or being or purporting to be any certificate, order, or allowance, by any competent court, board, or officer, or being or purporting to be any license or authority authorized by any statute, or any instrument or writing being or purporting to be the act of another, by which any pecuniary demand or obligation shall be or purport to be created, increased, discharged, or diminished, or by which any right or property whatever shall be or purport to be transferred, conveyed, discharged, diminished, or in any manner affected, by which false making, forging, altering or counterfeiting any person may be affected, bound, or in any way injured in his person or property, shall be guilty of forgery.



97-21-63. **SEC. 97-21-63. Will, deed, certificate of acknowledgment or proof of recordable instrument.** acknowledgment or proof of recordable instrument.

Every person who shall be convicted of having forged, counterfeited, or falsely altered any will of real or personal property, or any deed or other instrument, being or purporting to be the act of another by which any right or interest in real or personal property shall be or purport to be transferred, conveyed, or in any way changed or affected; or any certificate or indorsement of the acknowledgment of any person of any deed or other instrument which by law may be recorded, made or purporting to have been made by any officer duly authorized to make such certificate or indorsement; or any certificate of the proof of any deed or other instrument which by law may be recorded, made or purporting to have been made by any officer duly authorized to make such certificate, with intent to defraud, shall be guilty of forgery.

**DE-FACTO RICO ENTERPRISE,  
"ASSOCIATION-IN-FACT" RICO  
ENTERPRISE**

77. Between 2007-2012 defendants acted together or in groups and created an

"association- in- fact" enterprise, which is sufficient for RICO, even if "Obama for America" was not a RICO enterprise. Defendants acted directly or indirectly, personally or through agent or agents, employed the same or similar methods of commission with the purpose to defraud, utter forged documents, commit wire and mail fraud, unlawfully procure citizenship and nationalization unlawfully, obstruct justice and intimidate, harass, defame, slander and

otherwise retaliate against witnesses, victims, informants and whistleblowers. Plaintiffs were victims of the acts of the racketeering or the acts of racketeering were otherwise interrelated by distinguishing characteristics and were not isolated events.

### **PATTERN OF ONGOING RACKETEERING ACTIVITY**

78. Fraud committed by defendants, who were acting directly or indirectly and committed fraud, which was on going from 2007 until now, for over four years. Actions by the defendants established a pattern of racketeering activity within the meaning of 18 U.S.C. §1962(c), in that their common purpose was to defraud, the common result was to defraud. Plaintiffs were victims of the acts of racketeering and the acts of racketeering were otherwise related by distinguishing characteristics and were not isolated events.

"Obama for America" -Racketeering  
Influenced Corrupt Organization

Barack Hussein Obama created "Obama For America" as his fundraising organization for his Presidential run. At all times Obama was not eligible for the US presidency and he used "Obama for America" as a vehicle to defraud American citizens and get into the position of the U.S. President while using forged

documents.

Defense states that Plaintiffs did not meet heightened requirements for pleadings set in *See* Fed. R. Civ.P. 8; *Bell Atlantic v. Twombly*, 550 U.S. 544, 570 (2007); *Ashcroft v. Iqbal*, 129 S.Ct. 1937, 1954, (2009). *Twombly* and *Iqbal* add a component of plausibility to the complaint, which is not present in the state court, however the court should remember that

- a. Plaintiffs filed the complaint in the state court, which has a lower threshold for pleadings
- b. Plaintiffs have to overcome the enormous hurdle of stonewalling by multiple governmental officials and agencies due to Obama's current position. Plaintiffs would need further discovery and court's subpoena power in order to provide more details for RICO complaint.

After a reasonable opportunity to conduct discovery Plaintiffs would be able to provide more specifics on RICO activity.

**CONCLUSION** Based on all of the above **Defendants failed to meet their burden of proof** and the **Defendants Motion to Dismiss the Entire Complaint on the Pleadings** should be denied. The pleadings are sufficient to proceed to the

next step of the discovery, which was stayed by this court pending adjudication of the motion to dismiss on the pleadings. Respectfully submitted

/s/ Dr. Orly Taitz, ESQ 10.15.2012


I, Orly Taitz, attest that defendants in this case are being served today, 10.15.2012 via Electronic Court Filing

/s/ Orly Taitz



Hosemann 08-cv-280 and Thomas et al v Hosemann 08-cv-248 MSSD. In this case 28 citizens from different states sued the same Secretary of state of MS, Delbert Hosemann, for Declaratory relief . Incidentally, the lead plaintiff in this case was a resident of California as well. The fact that the case was brought by a former Mississippi judge, well versed in Mississippi law, was an additional indication for the Plaintiffs, that there is no provision in MS law preventing non-residents from filing an election challenge. Later this case was withdrawn by the plaintiffs, as it went past the electoral college certification time and the state of Hawaii was stonewalling and refusing to provide any information. Today, plaintiffs have gathered more evidence and more information to proceed and succeed in the challenge.

This is part 1 of the opposition. Part 2 of the opposition is provided in the answer to the Democratic Party of MS and is included herein by reference



/s/ DR. Orly Taitz ESQ-pro se plaintiff signing on her behalf

I attest that the defendants will be served on October 15, 2012 via electronic Court filing of these pleadings



/s/ Dr. Orly Taitz, ESQ