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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
SANTA ANA (SOUTHERN) DIVISION

Captain Pamela Barnett,
Lt. Colonel Richard Norton Bauerbach
Captain Robin D. Biron
Colonel John D. Blair,
Mr. David L. Bosley,
Ms. Loretta G. Bosley,
Captain Harry G. Butler,
Representative Glenn Casada, Tennessee
Jennifer Leah Clark,
Representative Timothy Comerford, NH
Charles Crusemire,
Representative Cynthia Davis, Missouri
Chief Warrant O. Thomas S. Davidson
Matthew Michael Edwards,
Sergeant Jason Freese,
Mr. Kurt C. Fuqua,
Officer Clint Grimes,
Representative Casey Guernsey, Missouri
Julliett Ireland,
D. Andrew Johnson,
Israel D. Jones,
Timothy Jones,
Alan Keyes, Ph.D.,
Commander David Fullmer LaRoque,
Gail Lightfoot,
Lita M. Lott,
Major David Grant Mosby,
MSGT Steven Kay Neuenschwander,
Representative Frank Niceley, Tennessee
Retired Senator Jerry O’Neil, Montana,
SFC E7 Robert Lee Perry,
Representative Larry Rappaport, NH
Colonel Harry Riley,
Sergeant Jeffrey Wayne Rosner,
MSGT Jeffrey Schwilk,
Captain David Smithey,



Civil Action No.:
SACV09-00082-DOC (Anx)

**PLAINTIFFS’ NOTICE OF
28 U.S.C. §636 OBJECTIONS
AND MOTION FOR REVIEW
OF MAGISTRATE JUDGE
ARTHUR NAKAZATO’S
SUA SPONTE ORDER OF
AUGUST 6, 2009
STRIKING MOTION FOR
LETTERS ROGATORY and
MOTION TO RECUSE
MAGISTRATE JUDGE
ARTHUR NAKAZATO under
28 U.S.C. §455(a)
“Appearance of Impropriety due
to bias or prejudice.”**

**Motion Day Hearing: Monday
September 14, 2009, 8:30 AM**

Request for Earlier & Expedited
Hearing Submitted herein

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Carl S. Sneed, DVM,
Lt. Commander John Bruce Steidel,
Cmdr. Douglas Earl Stoeppelwerth
Thomas J Taylor,
Representative Eric Swafford, Tennessee
Captain Neil B. Turner,
Richard E. Venable,
LCDR Jeff Graham Winthrope, and
Lt. Colonel Mark Wriggle,
Plaintiffs,



v.

Barack Hussein Obama,
Michelle L.R. Obama,
Hillary Rodham Clinton, Secretary of State,
Robert M. Gates, Secretary of Defense,
Joseph R. Biden, Vice-President and
President of the Senate,
Defendants.

PLAINTIFFS’ OBJECTIONS TO MAGISTRATE
JUDGE ARTHUR NAKAZATO’S ACTION OF AUGUST 6, 2009 and
MOTION FOR REVIEW PURSUANT TO CDCA L.R. 72-2.1:
NO TRANSFER NOR CONSENT NOR ORDER OF REFERENCE AUTHORIZED
THIS MAGISTRATE’S SUA SPONTE ORDER OR INVOLVEMENT IN THIS
CASE---MOTION TO RECUSE 28 U.S.C. §455(a)

Judge Arthur Nakazato’s order of August 6, 2009, is a nullity without lawful force or effect because it was entered without any prior transfer nor order of reference, nor by the consent of the parties, pursuant to 28 U.S.C. §636(b)(1)(A) and Rule 72(a) of the Federal Rules of Civil Procedure. Plaintiffs are concerned, and first and foremost generally object to Judge Nakazato’s August 6, 2009 order (shown as Document 35) in “**Case: 8:09-cv-00082-DOC-AN As of: 08/17/2009 06:55 PM PDT**” because Judge Nakazato’s hyper-formalistic order appears to be inconsistent with Judge David O. Carter’s oral assurances in court on July 13, 2009, that this case would be allowed to proceed on the merits without undue regard to technicalities.

The motion submitted was extremely important and the technicalities enumerated seem unworthy. The first violations of the local rules which Judge

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3 Nakazato listed was the form of the “Notice of Motion” required by Central District of
4 California L.R. 6-1 and L.R. 7-4: Plaintiffs did not check their calendars to select
5 which Monday was their Motion day. While omission was a fair criticism on the
6 Magistrate Judge’s part, L.R. 7-4 states that “the court MAY decline to consider a
7 motion unless it meets to requirements of L.R. 7-4-7-8.” In the context of this case,
8 where none of the Defendants had actually appeared or answered as of yet, and in
9 which Judge Carter had previously set hearings *sua sponte* without reference to the
10 “Notice of Motion” rule or schedule, Judge Nakazato’s UNAUTHORIZED order
11 striking the Plaintiffs’ Motion seems unduly severe and prejudicial.

12 In regard to L.R. Rule 11-3.3 regarding form and format: pagination, Plaintiffs
13 submit that their failure to paginate was a printing error, and that in fact they were
14 unaware that their motion had no numbers until this was pointed out by the Court,
15 because on their computer screen, the Motion was fully compliant with: “**L.R. 11-3.3**
16 **Pagination. All documents shall be numbered consecutively at the bottom of**
17 **each page.**” More perplexing, however, is Judge Nakazato’s reference to Rule 11-
18 3.6: “**L.R. 11-3.6 Spacing** . The typing or printing on the document shall be double
19 spaced, including citations and quotations.”

20 Even after carefully examining the three subparts of L.R. 11-3.6 in some detail,
21 Plaintiffs submit that their August 1, 2009, Motion was entirely in compliance with
22 Local Rules 11-3.6, 11-3.6.1, 11-3.6.2, and 11.6.3. In any event, Plaintiffs’ First
23 Amended Motion for Issuance of Letters Rogatory is currently being prepared.

24 **28 U.S.C. §455(a) MOTION TO RECUSE**

25 **MAGISTRATE JUDGE ARTHUR NAKAZATO**

26 **As noted above, Judge Arthur Nakazato’s order of August 6, 2009, seems**
27 **entirely incompatible with Judge David O. Carter’s oral pronouncements made**
28 **both literally and figuratively *ex-cathedra* in open court on Monday, July 13, 2009,**

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3 that he intended to take this case concerning the qualifications of Barack Hussein
4 Obama to serve as President of the United States seriously and see that the merits of
5 this case would not be obscured by trivial technicalities.

6 As the United States Supreme Court has held (per Justice Scalia) that

7 ...favorable or unfavorable predisposition can also deserve to be
8 characterized as "bias" or "prejudice" because, even though it springs
9 from the facts adduced or the events occurring at trial, it is so extreme as
10 to display clear inability to render fair judgment. (That explains what
11 some courts have called the "pervasive bias" exception to the
12 "extrajudicial source" doctrine. See, e.g., *Davis v. Board of School
13 Comm'rs of Mobile County*, 517 F.2d 1044, 1051 (CA5 1975), cert.
14 denied, 425 U.S. 944, 48 L. Ed. 2d 188, 96 S. Ct. 1685 (1976).)

15 *Liteky v. United States*, 510 U.S. at 551, 114 S.Ct.at 1155, 127 L.Ed.2d at 488
16 (1994).

17 Plaintiffs submit that Judge Arthur Nakazato's order, entered without any prior
18 order of reference, without the consent of the parties, and without an order of transfer
19 from the District Judge, shows in its content and tenor a disloyalty to Judge Carter's
20 promise and in fact a disregard (with regard to the pagination 11-3.6 issues) a
21 complete disregard of the actual compliant nature of the motion attacked. If the Court
22 believes that these Plaintiffs' counsel has in any way violated Local Rule 11-3.6, the
23 Plaintiffs' pray that the Court will instruct counsel on the nature of the violations.

24 The reality is that a firestorm broke loose on the internet and electronic media
25 generally on August 2-5 concerning the document attached to Plaintiff's August 1,
26 2009 Document 34 as Exhibit A. Plaintiffs' counsel was subjected to verbal abuse
27 including death-threats and that this firestorm was unjustifiably fed and fanned by
28 Judge Arthur Nakazato's order. The reality of this case is that respect for the
importance of the issues involved, such as the respect shown by Judge David O.
Carter on July 13, 2009, is the only hope for a fair and just resolution in the best
interests of the people of the United States.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that the United States District Court will sustain their objections to Magistrate Judge Arthur Nakazato’s order entered Thursday August 6, 2009, which objections are submitted within ten business days as allowed by Rule 6(a)(2), and that the Court will set together the Plaintiffs’ Motion for Review of Judge Nakazato’s order together with the Plaintiff’s Motion to Recuse Judge Arthur Nakazato for hearing prior to the 24 days after service required by local Rule 6-1 and 7-4 which yields an “ordinary” Motion day of September 14, 2009.

Monday, August 18, 2009

Respectfully submitted,

By: _____
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PROOF OF SERVICE

I the undersigned Charles Edward Lincoln, being over the age of 18 and not a party to this case, so hereby declare under penalty of perjury that on this 18th Day of August, I provided facsimile copies of the Plaintiffs’ above-and-foregoing “Rule 72(a) Objections and Motion for Review of Magistrate Judge Arthur Nakazato’s Sua Sponte Order Striking Plaintiffs Motion for Issuance of Letters Rogatory” upon those attorneys who have appeared in this case in accordance with the local rules of the Central District of California, to wit:

THOMAS P. O’BRIEN

LEON W. WEIDMAN

ROGER E. WEST roger.west4@usdoj.gov (as of August 7, 2009, designated as lead counsel for Defendant Barack H. Obama)

DAVID A. DeJUTE

FACSIMILE (213) 894-7819

DONE AND EXECUTED ON THIS 18th day of August, 2009

Charles Edward Lincoln