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10 Attorneys for Defendants

11 UNITED STATES DISTRICT COURT
 12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
 13 SOUTHERN DIVISION

14 CAPTAIN PAMELA BARNETT, *et al.*,) No. SACV 09-00082 DOC (ANx)
 15)
 Plaintiffs,)
 16)
 v.) **JOINT RULE 26(f) REPORT**
 17)
 BARACK H. OBAMA, *et al.*)
 18)
 Defendants.) Hon. David O. Carter
 19)

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21
22 **JOINT RULE 26(f) REPORT**

23 Pursuant to this Court's Order dated September 8, 2009,
 24 counsel for all parties conferred on September 14, 2009 and hereby
 25 submit their Joint Rule 26(f) Report:
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Preliminary Statement

In this case, Plaintiffs seek a trial before this Court regarding their contentions that President Barack Obama is not qualified or fit to be President of the United States. It is Defendants' position that no single federal district court has the power to declare that a sitting President is not fit or qualified to occupy the Office, and is, therefore, not a legitimate President. If any court were to entertain such a challenge, and order the President of the United States to submit to a trial regarding his qualifications, such an order would do violence to the Doctrine of Separation of Powers and would directly contravene the express terms of the Constitution. Accordingly, for this and other reasons set forth in Defendants' Motion to Dismiss, filed on September 4, 2009, the only issues in this case are issues of law, without any genuine issues of material fact to try. Therefore, Defendants do not intend to engage in any discovery herein, to call any witnesses, or to produce or proffer any documents herein.

Plaintiffs disagree with the legal arguments put forth in this section by Defendants and intend to move this matter forward to trial, conduct discovery, and obtain proof and evidence for said trial.

1. Factual Summary of the Claims and Defenses

Defendants contend that, for the reasons set forth in their Motion to Dismiss, Plaintiffs' First Amended Complaint fails to confer any subject matter jurisdiction on this Court and fails to state any claim upon which relief can be granted. Plaintiffs simply are not the proper parties to challenge President Obama's qualifications or fitness for office and this Court is not the

1 proper forum to decide this issue.

2 Plaintiffs contend that they include a Presidential and Vice
3 Presidential candidate that were on the 2008 Presidential Ballot in
4 a number of states, including, but not by way of exclusion,
5 California. Plaintiffs include an elector pledged to the candidacy
6 of a Presidential candidate on the 2008 California ballot. These
7 Plaintiffs have suffered real, tangible injuries if Mr. Obama was
8 not qualified to run for and serve as President of the United
9 States, as they have been denied a free and fair election.

10 Further, Plaintiffs include active duty and/or non-active
11 military personnel, all of which may be recalled to service as a
12 result of actions taken by Mr. Obama. If Mr. Obama is not eligible
13 to serve as President, any such actions taken by Mr. Obama would be
14 in contravention of the obligations and rights of said Plaintiffs.

15 Additionally, Plaintiffs include elected officials from states
16 other than California who believe that they are unable to perform
17 their legislative duties due to the uncertainty over the validity
18 of the federal legislation signed, and Executive Orders issued by,
19 Mr. Obama, as a result of the continuing questions over his
20 eligibility to serve as President.

21 **2. Short Synopsis of Principal Issues**

22 Defendants contend that the principal issue in this case is
23 whether the Plaintiffs can challenge, and whether this Court can
24 entertain such a challenge, that President Obama is qualified under
25 the Constitution to hold the Office of President.

26 Plaintiffs contend that the principal issue in this case is
27 whether Barack Hussein Obama is eligible to serve as President of
28 the United States.

1 **3. Additional Parties**

2 Defendants believe that no additional parties are contemplated
3 or likely to be added to this lawsuit.

4 Plaintiffs believe that it is possible that additional
5 Plaintiffs may be added to this litigation.

6 **4. Motions**

7 Defendants believe that this case can and will be entirely
8 resolved by their pending Motion to Dismiss, set for hearing on
9 October 5, 2009.

10 Plaintiffs believe that this matter will survive the pending
11 motion filed by Defendants to dismiss this case and will go forward
12 to trial. Dr. Taitz has announced that she will be filing a motion
13 to disqualify Mr. Kreep from the case.

14 **5. Settlement**

15 No Settlement discussions have taken place.

16 Plaintiffs have offered settlement negotiations. Defendants
17 do not agree to have settlement negotiations.

18 **6. Discovery Plan**

19 Defendants note that the Court has granted Defendants' *Ex*
20 *Parte* Application and ordered that all non-jurisdictional discovery
21 be stayed until the Court rules on Defendants' Motion to Dismiss.
22 For the reasons set forth in that Motion, Defendants contend that
23 no discovery is permissible challenging the qualifications or
24 fitness for office of the President by these Plaintiffs using the
25 power of this Court.

26 Plaintiffs contend that discovery is appropriate and proper
27 and intend on taking the following depositions:

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- 1 a. Barack Hussein Obama
- 2 b. Cheryl Fukino
- 3 c. Speaker of the House of Representatives,
- 4 Congresswoman Nancy Pelosi;
- 5 d. Commissioner of Social Security;
- 6 e. All other Defendants; and, possibly,
- 7 f. Other witnesses found to have relevant information
- 8 in the future.

9 Plaintiffs also intend to subpoena documents including, but
10 not by way of exclusion, the following:

- 11 a. All records in the possession of any bureaucracy in
- 12 the State of Hawaii pertaining to the birth of
- 13 Barack Obama.
- 14 b. All records in the possession of any bureaucracy in
- 15 the State of Washington concerning the presence of
- 16 Barack Obama's mother there.
- 17 c. All documents in the possession and/or control of
- 18 Defendant Barack Obama regarding (and including, but
- 19 not limited to) the actual long-form birth
- 20 certificate of Barack Obama.
- 21 d. All documents in the possession and/or control of
- 22 Defendant Barack Obama regarding (and including, but
- 23 not limited to) the passport files of Barack Obama.
- 24 e. All documents in the possession and/or control of
- 25 Defendant Barack Obama regarding (and including, but
- 26 not limited to) the Harvard Law School records of
- 27 Barack Obama.
- 28 f. All documents in the possession and/or control of

1 Defendant Barack Obama regarding (and including, but
2 not limited to) the Columbia University records of
3 Barack Obama.

4 g. All documents in the possession and/or control of
5 Defendant Barack Obama regarding (and including, but
6 not limited to) the Occidental College records of
7 Barack Obama, including financial aid Mr. Obama
8 received.

9 h. All documents in the possession and/or control of
10 Defendant Barack Obama regarding (and including, but
11 not limited to) the Punahou School records of Barack
12 Obama, where Mr. Obama attended from the fifth grade
13 until he finished high school.

14 i. All documents in the possession and/or control of
15 Defendant Barack Obama regarding (and including, but
16 not limited to) the Noelani Elementary School
17 records of Barack Obama, where Mr. Obama attended
18 Kindergarten.

19 j. All documents in the possession and/or control of
20 Defendant Barack Obama regarding (and including, but
21 not limited to) the Illinois State Bar Association
22 records of Barack Obama.

23 k. All documents in the possession and/or control of
24 Defendant Barack Obama regarding (and including, but
25 not limited to) the Baptism records of Barack Obama.

26 l. All documents in the possession and/or control of
27 Defendant Barack Obama regarding (and including, but
28 not limited to) the Adoption records of Mr. Obama.

1 **7. Trial**

2 Defendants contend that trial is not permissible by these
3 Plaintiffs in this Court.

4 Plaintiffs contend that trial will be going forward herein.

5 **8. Other Issues**

6 Defendants do not believe that there are any other issues
7 affecting the status or management of the case.

8 Plaintiffs other than Wiley Drake and Marham Robinson note
9 that Dr. Taitz has filed a letter with the Court indicating that
10 she will be filing a motion to disqualify Mr. Kreep.

11 **9. Dates**

12 At the hearing on September 8, 2009, the Court solicited from
13 each counsel whether the following dates would be acceptable. The
14 following dates were and remain acceptable to each counsel:

15 (a) Discovery Cut-off Date:

16 (b) Final Motion Cut-off Date: December 7, 2009

17 (c) Final Pretrial Conference: January 11, 2010

18 (d) Trial: January 26, 2010

19 At the September 8th hearing, no discussion was had concerning
20 the discovery cut-off date.

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1 Defendants contend that no discovery is warranted or
2 permissible in this matter and that, therefore, a discovery cut-off
3 date is superfluous.

4 Plaintiffs request that the Court allow the maximum latitude
5 possible as far as time for Plaintiffs to conduct their discovery.

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Respectfully submitted,

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DATED: September 21, 2009

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GEORGE S. CARDONA
Acting United States Attorney

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/s/ Roger E. West
ROGER E. WEST
Assistant United States Attorney

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/s/ David A. DeJute
DAVID A. DeJUTE
Assistant United States Attorney
Attorneys for Defendants

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DATED: September 21, 2009

ORLY TAITZ LAW OFFICES

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/s/
ORLY TAITZ
Attorneys for all Plaintiffs other than
Markham Robinson and Wiley S. Drake

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DATED: September 21, 2009

UNITED STATES JUSTICE FOUNDATION

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/s/
GARY S. KREEP
Attorneys for Plaintiffs Markham Robinson
And Wiley S. Drake

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