

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Charles F. Kerchner, Jr,	:	Civil Action No.
Lowell T. Patterson,	:	
Darrell James LeNormand, and	:	
Donald H. Nelsen, Jr.,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
Barack Hussein Obama II, President Elect	:	
of the United States of America, President	:	
of the United States of America,	:	
and Individually;	:	
United States of America;	:	
United States Congress;	:	
United States Senate;	:	
United States House of Representatives;	:	
Richard B. Cheney, President of	:	
the Senate, Presiding Officer of Joint	:	
Session of Congress, Vice President of the	:	
United States and Individually; and	:	
Nancy Pelosi, Speaker of the House and	:	
Individually,	:	
	:	
Defendants.	:	
	:	

AMENDED COMPLAINT FOR EMERGENCY INJUNCTION, DECLARATORY
RELIEF, MANDAMUS, AND PETITION FOR QUO WARRANTO

Mario Apuzzo
185 Gatzmer Avenue
Jamesburg, New Jersey 08831
Phone: (732) 521-1900
Fax: (732) 521-3906
E-mail: apuzzo@erols.com

Plaintiffs allege as follows:

JURISDICTION AND VENUE

1. This action is founded upon the Constitution of the United States of America. As such, this Court has jurisdiction over defendants under 28 U.S.C. § 1346(a)(2).
2. This is a civil action claiming violations of the First, Ninth, Fourteenth, and Twentieth Amendments of the Constitution of the United States of America. As such, this Court has jurisdiction under 28 U.S.C. § 1331.
3. This action seeks declaratory relief. As such, this Court has jurisdiction under 28 U.S.C. § 2201(a) and 28 U.S.C. § 2202. Endnote 1.
4. This action seeks injunctive relief. As such, this Court has jurisdiction under 28 U.S.C. § 1343(a)(3) and 28 U.S.C. § 1343(a)(4).
5. This action is in the nature of mandamus, and seeks to compel those defendants which are branches of the United States Government and “officer[s] or employee[s] of the United States or any agency thereof” to perform their duties owed plaintiffs under the First, Fourteenth, and Twentieth Amendments of the Constitution of the United States. As such, this Court has jurisdiction under 28 U.S.C. § 1361.
6. This is also a petition for quo warranto under the Ninth Amendment to the Constitution, asking that Obama be declared under Article II to be illegitimate to hold the Office of President and Commander in Chief and that he be removed from that Office if sworn in.
7. This is a civil action in which an officer or employee of the United States acting in his official capacity or under color of legal authority and an agency of the United States are defendants. Three of the plaintiffs reside in this judicial district and the

fourth defendant resides within the Third Circuit. No real property is involved in this action. Venue is therefore proper under 28 U.S.C. § 1391(e).

PARTIES

Plaintiffs

8. Plaintiff, **Charles F. Kerchner, Jr.**, is a citizen of the United States and a resident of the State of Pennsylvania. He served 33 years in the U.S. Naval Reserves as both an Officer and an Enlisted person. He enlisted with the U.S. Naval Reserve in 1962. In 1976 he was commissioned as a U.S. Naval Reserves Officer and was approved as an Ensign (O-1), serving as a commissioned officer for 19 years and rising to the rank of a full Commander (O-5) in 1992 at which he served with various drilling reserve units until he retired in 1995. While not statutorily subject to recall, by Executive Order of the President or an act of Congress in an extreme national emergency, the President and/or Congress could order people in plaintiff's status of service to be recalled. Should plaintiff be recalled to active duty, he would need to know whether the President and Commander in Chief who may be giving him orders is in fact the legitimate President and Commander in Chief and therefore obligate him to follow those orders or risk being prosecuted for disobeying such legitimate orders. He is a registered member of the Republican Party. He voted in the General Election of November 4, 2008. Endnote 2.

9. Plaintiff, **Lowell T. Patterson**, is a citizen of the United States, a resident of the County of Burlington, and State of New Jersey. He is the State Chairman of the Constitution Party for the State of New Jersey and the Eastern Region (13 states) Chairman for that same party. He voted in the General Election of November 4, 2008.

10. Plaintiff, **Darrell James LeNormand**, is a citizen of the United States, a resident of the County of Middlesex, State of New Jersey. He is a registered member of the Republican Party. He voted in the General Election of November 4, 2008.

11. Plaintiff, **Donald H. Nelsen, Jr.**, is a citizen of the United States, a resident of the County of Middlesex, State of New Jersey. He is a New Jersey State Corrections Officer, employed at East Jersey State Prison. As such he took an oath to support and defend the U.S. Constitution. He is a former member of the Marine Reserves and Army National Guard, where in both instances he also took the oath to support and defend the U.S. Constitution. He is a registered member of the Republican Party. He voted in the General Election of November 4, 2008.

Defendants

12. Defendant, **Barack Hussein Obama II** (Obama), is the President Elect of the United States of America. On November 4, 2008, Obama defeated John McCain in the general election with 365 electoral votes to McCain's 173. Endnote 3.

His term of office as President of the United States is scheduled to begin after he is sworn in as the forty-fourth President of the United States at noon EST on January 20, 2009, in an inaugural ceremony at the U.S. Capitol. He is being sued in his official capacity as President Elect before taking the oath of Office or President of the United States after taking that oath and in his individual capacity.

13. Defendant, **United States of America** (U.S.A.), is a federal constitutional republic comprised of fifty states and a federal district and in which majority rule is tempered by minority rights protected by law. Endnote 4.

14. Defendant, **Congress of the United States** (Congress) is the bicameral legislature of the federal government of the United States of America, consisting of two houses, the Senate and the House of Representative. Article I of the Constitution vests all legislative power in the Congress.

15. Defendant, **United States Senate** (the Senate), is the upper house of the bicameral United States Congress which is the legislative branch of government of the U.S.A.

16. Defendant, **United States House of Representatives** (the House), is the lower house of the bicameral United States Congress which is the legislative branch of government of the U.S.A.

17. Defendant, **Richard B. Cheney** (Cheney), is the forty-sixth and current Vice President of the U.S.A. As Vice President, Cheney is also the President of the United States Senate. He is being sued in his official capacity as Vice President, President of the United States Senate, Presiding Officer of the Joint Session of Congress, and in his individual capacity.

18. Defendant, **Nancy Pelosi** (Pelosi), is the current Speaker of the United States House of Representatives. She is being sued in her official capacity as Speaker of the United States House of Representatives and in her individual capacity.

INTRODUCTION

Nature of the Action

19. "Governments are instituted among men, deriving their just powers from the consent of the governed." Endnote 5.

20. Plaintiffs are requesting redress and filing a grievance against defendants under the First Amendment to the United States Constitution.

21. Plaintiffs are also filing and seeking remedies for violation by the defendants of their procedural due process rights under the Fourteenth Amendment and for their violation of plaintiffs' rights under the Twentieth Amendment and Ninth Amendment.

22. No court of the United States has ever decided the merits of any legal action against a President-elect candidate challenging his eligibility to be President based on the "natural born Citizen" requirement of Article II Section 1 of the United States Constitution.

23. To date, no state or federal election official, nor any government authority, has verified that Obama ever established conclusively that he meets the eligibility standard under Article II of the Constitution.

24. This action is brought against Obama to compel him to prove that he is an Article II "natural born Citizen" and eligible to hold the Office of President and Commander in Chief.

25. This action is brought against the other defendants because, in light of the great public outcry and their petitions for redress of grievances regarding whether Obama is an Article II "natural born Citizen" and otherwise qualified for the office of President, they violated plaintiffs' Constitutional rights by failing on behalf of the plaintiffs and other concerned Americans as their elected representatives to address their grievances and to properly vet and verify under the Twentieth Amendment, Section 3 whether Obama is qualified as an Article II "natural born Citizen."

26. By so failing, defendants also deprive plaintiffs of procedural due process under the Fourteenth Amendment in failing to utilize, on their behalf as their elected representatives, the Constitutional procedure that exists for the plaintiffs and the American people to be assured that a President-Elect is qualified for that office.

The Constitutional Republic

27. We have a Constitutional Republic, not a pure democracy. Thus the candidate must qualify under the Constitution standards even if the people select/elect his electors. They do not vote for him, they vote for his electors.

Not an Article II "Natural Born Citizen"

28. Obama has not proven he is an Article II "natural born Citizen."

29. Obama is not an Article II "natural born Citizen."

Not Born In the U.S.A.

30. Obama has not met his burden or otherwise adequately shown that he is an Article II "natural born Citizen" of the United States.

31. Obama has not met his burden or otherwise adequately shown that he was born in the Unites States.

32. Obama's campaign posted the electronic image of a "Certification of Live Birth" (COLB) online in June 2008 after numerous questions arose regarding his birth place and citizenship status, but this document is not the best evidence (Endnote 6) and does not sufficiently prove that he was born in Hawaii because at the time of his birth Hawaii granted such documents to parents whose children were born outside the United States. Endnote 7.

33. On October 31, 2008, Hawaii Health Department Director Dr. Fukino made a public statement that she has "personally seen and verified that the Hawai'i State Department of Health has Sen. Obama's original birth certificate on record in accordance with state policies and procedures." But this statement does not, however, verify that Obama was born in Hawaii, and as explained above, under Hawaiian policies and procedures it is quite possible that Hawaii may have a birth record of a person not born in Hawaii or the United States.

34. Obama's Kenyan paternal step-grandmother Sarah Hussein Obama has stated that she was present at Obama's birth in (Mombosa) Kenya, per Affidavits of Bishop Ron McRae and of Rev. Kweli Shuhubia filed in the legal action by Philip J. Berg v. Barack Hussein Obama et al., Fed. Cir. D.P.A., Civil No: 08-cv-04083.

35. Obama's half-sister, Maya Soetoro, has named two different Hawaii hospitals where Obama could have been born.

36. The Kenyan Ambassador to the United States, Peter N.R.O. Ogego, acknowledged on November 6, 2008 during a radio interview with Detroit radio talk-show hosts Mike Clark, Trudi Daniels, and Marc Fellhauer on WRIF's "Mike In the Morning," that "President-Elect Obama" was born in Kenya and that his birth place was already a "well-known" attraction. <http://www.worldnetdaily.com/index.php?fa=PAGE.view&pageId=82031>. The Ambassador later said that he believed that the interviewers were asking him about Obama's father and not the son.

37. It has been reported through various media channels that the Kenyan government has sealed Obama's Kenyan records.

<http://www.worldnetdaily.com/index.php?fa=PAGE.view&pageId=79174>.

38. Obama has decided, for whatever reason, not to release a bona fide copy of his original birth certificate in its complete long form, showing in which hospital (or house) he was born and the name of the doctor (or medical person or mid-wife) who attended to his birth.

39. Obama wants to be President of the United States and if a Hawaii birth certificate exists as his campaign has stated, he should simply order it be made available to the public to settle his birth place controversy.

40. But Obama has refused any such public disclosure.

41. The governor's office in Hawaii said there is a valid birth certificate but rejected requests for access and left ambiguous its origin.

42. It is not known whether the birth certificate on file with the Hawaii Department of Health indicates a Hawaii birth or whether it was generated after the Obama family registered a Kenyan or other foreign birth in Hawaii.

43. If Obama was not born in the United States, he cannot gain U.S. citizenship from his mother because she was only 18 years old at the time of his birth.

Obama's Father Not a U.S. Citizen

44. Presumably Obama's mother was a U.S. citizen at the time of his birth.

45. Obama's father, Barack Obama Sr., at the time of Obama's birth was a British subject/citizen subject to the jurisdiction of the United Kingdom, and would have handed down British citizenship to his son, Obama. Endnote 8.

46. Obama publicly admits his father was not a U.S. citizen and was a British subject and then a Kenyan citizen when Kenya became an independent country.

47. Hence, at the time of his birth on August 4, 1961, Obama was born to a U.S. citizen mother but not a U.S. citizen father.

48. Under the definition of an Article II “natural born Citizen,” Obama therefore cannot be a “natural born Citizen.” Endnote 9.

Obama’s Adoption

49. Obama was adopted by his mother’s second husband, Lolo Soetoro, an Indonesian citizen, and taken to Indonesia. It is likely that Obama lost whatever citizenship he had and became a citizen of Indonesia upon his adoption.

50. There also are questions raised about Obama's move to Indonesia when he was a child and his attendance at school there when only Indonesian citizens were allowed in that nation's schools.

51. Obama also stated publicly that he traveled to Pakistan in the 1980s. But such travel was forbidden to American citizens at that time. There therefore exists a legitimate question as to what type of passport and declaration of citizenship Obama used to gain entry into Pakistan.

The Vetting of Obama on Behalf of the Plaintiffs and the People

52. No one in any official capacity has fully vetted the eligibility and Constitutional qualifications of Obama to serve as President and Commander-in-Chief of our military.

Vetting by the Democratic National Committee (DNC) on Behalf of the Plaintiffs and the People

53. The Democratic National Committee (DNC) did not adequately vet and verify Obama’s Article II “natural born citizenship” by having a disinterested third party check his original long-form birth records in the vaults in Hawaii.

54. The DNC could have requested and obtained certified copies but never did. The DNC has not signed any affidavit that Obama is an Article II “natural born citizen” of the U.S.

55. Attorney Berg demanded of the DNC that it vet Obama’s Article II “natural born Citizenship” status prior to the DNC Convention but they ignored him at that time.

56. Nancy Pelosi merely signed an affidavit to each state certifying that Obama was nominated.

57. She never addressed the issue of his Article II “natural born citizenship” qualifications to serve in any documents the DNC gave to the respective states.

58. No where in that nominating document does it say he is qualified to serve as President per the Constitutional requirements, if he is elected.

Vetting by the Secretaries of State on Behalf of the Plaintiffs and the People

59. Numerous voters and concerned citizens have turned to the offices of the Secretaries of States to find out what they did to properly vet Obama.

60. They have since learned that the Secretaries of the States (SOS) did not vet Obama either when they were asked to place Obama on the ballot.

61. Routinely, the SOS simply allowed Obama to sign a form to be placed on the ballot without any independent verification that he was qualified to be President and that his statements regarding his eligibility were truthful and correct.

62. These offices told concerned citizens that the political parties were responsible for vetting Obama, saying “It’s not my job,” “It’s someone else’s job,” “It’s the political party’s job.”

63. These offices simple took Obama's and his campaign's word that he was eligible for the office of President.

64. Thus Obama was placed on the ballot without any SOS vetting him to determine if he is an Article II "natural born Citizen."

Vetting by the Federal Election Commission on Behalf of the Plaintiffs and the People

65. Numerous voters and concerned citizens have contacted the Federal Elections Commission (FEC) and found out that they also did not verify Obama's Article II eligibility. FEC representatives have stated that they only deal with financial aspects of the campaign and not Obama's Article II eligibility qualifications for the office of President.

Vetting by the Media on Behalf of the Plaintiffs and the People

66. The "People" were not able to vet Obama properly due to the media not aggressively attempting to and obtaining the original records located in but not limited to Hawaii, Kenya, Indonesia, and Pakistan.

67. The mainstream media did not do sufficient investigative reporting which caused the plaintiffs and other concerned Americans to be denied the need information to verify whether or not Obama is an Article II "natural born Citizen."

68. FactCheck.org and Snopes.com were relied upon as the final arbiters of the truth but those organizations only provided for the American people superficial and incomplete information on Obama provided by the Obama campaign.

69. Obama has also used his right to privacy to prevent the media and American people from gaining access to many documents which could reveal important information about his identity. Endnote 10.

70. Thus the plaintiffs and the people were deprived of the so called “4th branch of our government,” a well-informed media to dig into all the facts at the source where original records are kept so they could inform and assure the plaintiffs and the American people that Obama was qualified to be President.

71. Obama has sealed most of his important documents that would shed light on his true identity and the main stream media has not challenged him as to why he did so. Endnote 11.

72. The media also did not use its authority to seek the unsealing of any of Obama’s sealed records.

73. That is not the usual role the media takes in this country.

74. The main street media left plaintiffs and other Americans in the dark and was routinely silent for the most part on this issue and ignored plaintiffs’ eligibility challenges and that of other Americans.

Vetting by the Electoral College On Behalf of the Plaintiffs and the People

75. The Electoral College received numerous letters urging its electors to review the Article II “natural born Citizen” controversy involving Obama. Endnote 12.

<http://www.wnd.com/index.php?fa=PAGE.view&pageId=85595>.

76. But the Electoral College did not vet the candidate after the people’s vote.

77. The electors merely relied on the actions of their respective Secretaries of State who put Obama on the ballot, assumed he was Article II qualified, and “rubber stamped” the vote of the people.

78. Since most of these people are party loyalists they of course were not going to go against their own party and not elect Obama, even though under the Constitution,

and their sworn oath to uphold it, they should not have voted for Obama without investigating fully his presumed claim to Article II “natural born citizenship,” especially given that Obama himself has never uttered this statement with his own words.

Vetting Through Litigation on Behalf of the Plaintiffs and the People

79. There is a long list of legal cases challenging Obama’s eligibility to be President. Endnote 13.

80. Many of those cases have been denied by both state and federal courts due to the court’s finding, among other things, that the plaintiffs lacked standing to bring the law suits.

81. Several of those cases have already reached the U.S. Supreme Court.

82. Over 60,128 letters from the public were sent to the U.S. Supreme Court asking the Court to accept the pending cases and decide them on the merits. The most recent campaign generated 12,096 messages.

<http://wnd.com/index.php?fa=PAGE.view&pageId=86325;>

[http://www.wnd.com/index.php?fa=PAGE.view&pageId=86252.](http://www.wnd.com/index.php?fa=PAGE.view&pageId=86252)

83. Justices have so far declined to give any of the cases full hearings on their merits. Endnote 14.

84. Legal challenges to date have mostly been turned aside due to lack of standing and other procedural issues.

85. It appears that the courts have to date refused to decide the merits of the eligibility challenges because they likely considered the question to be a “political issue” and that Obama should have been vetted through the political process.

86. But the political process this election cycle has failed to observe and uphold the Constitution, even with the questions being asked by many people, to properly vet this candidate's exact citizenship status.

When Obama Was "Elected" President

87. Obama became the President-Elect when the Electoral College elected him on December 15, 2008.

88. Obama also publicly claimed to be President-Elect on and after 15 Dec 2008 and the media, spokespeople, and government officials referred to him as such

89. Hence, Congress had sufficient time to "qualify" the President-Elect between December 15, 2008 and January 8, 2009 but they did not.

Vetting by Congress on Behalf of the Plaintiffs and the People

90. The Congress of the U.S. has never passed a resolution declaring that Obama is an Article II "natural born citizen" of the U.S. similar to the one the Senate passed with Senate Resolution 511 in April, 2008, for John McCain.

91. Obama never went to Congress to clarify the flaws in his citizenship status to serve as President and Commander in Chief.

92. So Congress has not ruled on this issue to date on behalf of Obama as it did for McCain.

93. Twentieth Amendment, Section 3, provides that Congress must fully qualify the candidate "elected" by the Electoral College Electors.

94. Section 3 provides in pertinent part: "If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President

shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified."

95. Hence, the Constitution itself foresees the possibility that the nation could have a President elect who fails to qualify.

96. If there existed any significant public doubt regarding his eligibility to be President, Congress had the duty under the Twentieth Amendment, Section 3 to confirm whether Obama, once the Electors elected him, was qualified under Article II, Section 1, Clause 5 of the Constitution. Endnote 15.

97. Congress is the elected representatives of the American people and the people speak and act through them.

98. Hence, Congress had the duty under the Constitution to the plaintiffs and the American people to verify the President Elect's qualifications under Article II, Section 1, Clause 5 as is indicated by the Twentieth Amendment, Section 3.

99. Congress is responsible for insuring the person they are going to legally and constitutionally "confirm" as President of the United States and Commander in Chief is fully and conclusively qualified under our Constitution.

100. Congress must insure that the Constitution is upheld and that the President-Elect is qualified in the Constitutional sense and meets the three qualifications found in Article II, Section 1, Clause 5.

101. It is critical that only an Article II qualified person be confirmed and sworn in as President and Commander in Chief for the sake of national security of the United

States and because at some point any person or government, foreign or domestic, could upon obtaining damaging evidence regarding the Article II “natural born Citizen” requirement, blackmail him to the detriment of the United States.

102. No other political institution has a Constitutional duty to verify the Constitutional qualifications of a President Elect.

103. Hence, the last political institution to make sure Obama is eligible and qualified to be President was Congress under the Twentieth Amendment.

104. The Twentieth Amendment also provides procedure for what happens if the President Elect does not qualify for the office to which he has been elected.

105. Each member of the U.S. House of Representatives and Senate has a duty to the plaintiffs and the American people to do his or her due diligence and demand all necessary records and question all necessary witnesses to determine the true identity and eligibility of any would-be President.

106. Obama, as the President Elect, was subject to the "qualification" clause of the 20th Amendment from December 15, 2008, when the Electoral College voted for him.

107. On January 8, 2009, Congress in Joint Session confirmed Obama as the next President of the United States even though he is not an Article II “natural born Citizen.”
Endnote 16.

108. Hence, Congress had from December 15, 2008 to and including January 8, 2009 to hold a fact finding hearing and subpoena documents and investigate the challenges publicly expressed by plaintiffs and thousands of other Americans regarding

whether Obama is an Article II "natural born Citizen" and which were even the subject of numerous law suits filed in our nation's courts.

109. Thus Congress had over 3 weeks to hold a public hearing in the Senate, House, or both to investigate the issue but they did not.

110. When so much doubt has been expressed in the public arena about Obama's eligibility to be President, Congress had a duty to investigate and confirm for the sake of the Constitution and the plaintiffs and other American people which it represents if Obama is so qualified by holding a Congressional hearing and investigation on the matter with full subpoena power. Endnote 17.

111. Even though Congress was well aware of the thousands of people including the plaintiffs who had petitioned Congress so that it could properly investigate Obama's qualifications to be President (Endnote 18) and that no court of law had accepted any case raising the issue because of standing or some other procedural obstacle, Congress violated the Twentieth Amendment by failing to assure that Obama meets the eligibility requirements of Article II and confirming him as President at a time when there was and continued to be such a national debate regarding Obama's Article II eligibility to be President.

112. Congress did not due their due diligence in protecting the Constitution and the plaintiffs and the people before confirming Obama to be President before the Joint Session of Congress on January 8, 2009.

113. At the time that Congress was faced with the confirmation of the President Elect, all courts refused to decide the eligibility question on the merits and the matter was still in the political sphere.

114. Congress should have taken the lead while the issue was still in the political arena and not force the courts to later take action in this matter.

115. Congress cannot and must not say that the "Snopes.com" and "FactCheck.org" statements online and Obama's campaign's word are all they need to satisfy the Constitution and their due diligence to protect it on behalf of the plaintiffs and the people.

116. But that is what Congress did and members even mentioned Snopes.com in letters to constituents as proof Obama is an Article II "natural born Citizen," even though Snopes.com never so stated. Endnote 19.

117. The Joint Session of Congress could even have requested the United States Supreme Court to conduct an immediate emergency hearing on the matter and report back its findings on this matter prior to the confirmation vote.

118. Even though no court of law has to date been willing to decide the underlying merits of the Obama qualification controversy, Congress could not simply defer to the authority of the courts in not deciding such merits, for it has its own constitutional duties to uphold.

119. Congress should have subpoenaed Obama's original long-form birth records in the sealed records in Hawaii, and also the alleged sealed birth records in Kenya in the hands of the Kenyan government.

120. Congress should have subpoenaed the original long form birth certificate, witnesses, and documents that are necessary to corroborate Obama's claim that he was born in Hawaii.

121. The birth certificate would have provided the name of the hospital (or house) where the birth allegedly occurred and the name of the doctor (or mid-wife) who delivered him and other vital corroborating information needed to confirm that Obama was in fact born in Hawaii.

122. Congress should have also subpoenaed or requested through diplomatic channels Obama's relatives in Kenya who allegedly witnessed Obama's birth in Kenya to testify before Congress and/or subpoenaed any birth records in Mombasa Hospital or other hospital in Kenya, or in the Kenyan government's possession, and/or in the British Empire's duplicate records in London since in 1961 Kenya was a colony and it is believed that all hospital births in British colonies had duplicate records of the birth event sent to London.

123. Congress should also have subpoenaed the Indonesian adoption records and records concerning Obama's travel to Pakistan on a non U.S. passport when he was approximately 20 years old, Obama's complete passport file currently in the possession of the State Department, and all other visas and travel documents for his entire life under any alias or a/k/a names Obama may have had used.

124. But Congress did none of this and simply confirmed Obama's election without any questions, debate, investigation, or request for objections and thereby did not address the plaintiff's and the peoples' grievance regarding Obama's Article II qualifications to be President.

125. Members of Congress had a right to stand and object to the counting of the vote and confirmation of Obama's election until such time that he can conclusively prove

that he is qualified to serve as President of the United States and Commander-in-Chief of our military.

126. Members of Congress had due notice of the plaintiffs' and other concerned Americans' grievances and a duty to object to Obama's confirmation, and they should have stood up and said "point of order," objected, and demanded a full investigation of Obama's citizenship status.

127. Vice President Cheney did announce that the Joint Session was meeting pursuant to the Constitution and laws of the United States to verify the Certificate of Votes and count the votes of the electors of the several states for President and Vice President of the United States.

128. Without receiving any objections to the dispensing of the full reading of the certificates, he called for the tellers to proceed with the reading of the electoral votes in alphabetical order by states and tally the vote.

129. He then started with Alabama and opened and presented each Certificate for each state.

130. The tellers for each Chamber then examined the certificates and announced the vote from each state.

131. Cheney then asked the tellers to count the total votes and provide the totals to him as the President of the Senate.

132. He then announced the vote totals for each candidate for each office, declared Obama and Biden the winners, and dissolved the Joint Session.

133. At no time did he call for objections after the vote tally was reported for each state or at the end of the total vote for either office.

<http://countryfirst.bravehost.com/phpBB3/viewtopic.php?f=9&t=1843&p=7069&hilit=Burriss#p7265>.

134. Pursuant to Title 3 of the U.S. Code, Cheney was required to openly call for objections to each state's vote after each state's vote is read. Cheney failed to satisfy that minimum requirement. Endnote 20.

135. So not only did the Joint Session of Congress fail to vet and investigate Obama's qualifications to be President under the unique circumstances existing in the public arena and given the petition of the plaintiffs and thousands of people, but Cheney also did not openly call for objections after each states' votes were announced as required by statute, Title 3, Chapter 1, Section 15.

136. On January 8, 2009, Congress committed an unconstitutional act of confirming Obama, an ineligible person for President and Commander in Chief under Article II.

137. Congress has failed to exercise its Constitutional duty under the Twentieth Amendment and so now the Court must decide this controversy as a legal matter.

138. Since Congress refused to decide this grave matter through the political process and has otherwise acted unconstitutionally, the courts now have jurisdiction to hear and decide the merits of plaintiffs' action against defendants and their constitutional challenge to Obama's eligibility to be President, and to provide plaintiffs with a judicial remedy.

The Continuing Efforts by Litigants to Gather Information Regarding Barack Hussein Obama II on Behalf of the Plaintiffs and the People

139. Officials at Occidental College in Los Angeles, Calif., have been served with a demand to produce records concerning Barack Obama's attendance there during

the 1980s because they could show whether he was attending as a foreign national.

<http://wnd.com/index.php?fa=PAGE.view&pageId=86325>. Endnote 21.

Questions Remain Unanswered Regarding the Identity of Obama

140. Because of the inability and failure of the defendants and other political and social institutions to properly vet Obama, questions remain unanswered about his Article II eligibility clouding his impending presidency.

The Presidential Inauguration

141. It has been announced that on January 20, 2009, “President-elect Barack H. Obama will take the Oath of Office (Endnote 22) administered by the Chief Justice of the United States, the Honorable John G. Roberts, Jr.” Endnote 23.

142. It would be a mockery of the Constitution for Obama to take an oath as the new President to preserve, protect and defend the Constitution if he is not qualified by that same document to be President.

Irreparable Harm

143. If Obama is sworn in as President of the United States and Commander in Chief, there will be substantial and irreparable harm to the stability of the United States of America, its people, and the plaintiffs.

144. Because Obama is not a “natural born Citizen” as required by Article II, an usurper will be sitting as the President of the United States and none of the treaties, laws, or executive orders signed by him will be valid or legal.

145. On January 20, 2009, after 12 Noon, Obama became the 44th President of the United States and Chief Justice Roberts administered the oath of office to Obama.

146 Obama has already started signing Executive Orders and taking other official actions under his new assumed powers as the President and Commander in Chief.

Endnote 24.

147. In view of the foregoing, plaintiffs set forth the following causes of action.

CAUSES OF ACTION

COUNT I (First Amendment)

DEFENDANTS VIOLATED PLAINTIFFS' RIGHTS UNDER THE FIRST AMENDMENT BY FAILING TO ADDRESS AND IGNORING PLAINTIFFS' AND OTHER CONCERNED AMERICANS' PETITIONS TO THEM TO ADDRESS THEIR GRIEVANCES REGARDING WHETHER OR NOT OBAMA IS AN ARTICLE II "NATURAL BORN CITIZEN" AND QUALIFIED TO BE PRESIDENT AND COMMANDER IN CHIEF OF THE UNITED STATES

148. Article II, Section 1, clause 5 of the United States Constitution provides:

"No person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty-five Years, and been fourteen Years a Resident within the United States."

149. An Article II "natural born Citizen" is a child born on U.S. soil to parents both of whom are U.S. citizens (by birth or naturalization) at the time of the child's birth.

ENDNOTE 25.

150. The people's right to petition their government is expressly set out in the First Amendment: "Congress shall make no law ... abridging ... the right of the people ... to petition the Government for a redress of grievances."

151. Petition is the right to ask government at any level to right a wrong or correct a problem.

152. The right to petition their government allows citizens to focus government attention on unresolved ills; provide information to elected leaders about unpopular policies; expose misconduct, waste, corruption, and incompetence; vent popular frustrations without endangering the public order; and request the government to call for hearings and investigations on matters of concern to the citizens.

153. Plaintiffs have their redress right under the First Amendment to bring to the attention of their government a wrong that they believe should be corrected.

154. But even though plaintiffs and many other concerned Americans petitioned the defendants to redress their grievances regarding Obama's Article II constitutional qualifications to be President, they simply ignored their pleas.

155. Congress's inaction and indifference toward plaintiffs' and many other concerned Americans' grievances concerning Obama's Article II eligibility, which is a matter of grave national concern and which continues to be a subject of great public debate and litigation, made a law ipso facto abridging the right of the plaintiffs and the people to petition their government for the redress of grievances, and thus violated the plaintiffs' rights under the First Amendment.

156. Congress acted improperly and unconstitutionally in not investigating and conducting hearings under the 20th Amendment on the question of whether Obama is an Article II "natural born Citizen."

157. Holding government officials accountable is vital to democracy.

158. Also vital to democracy is allowing each branch of government to perform its official duties without unnecessary or inappropriate interference from the other branches.

159. With all the other branches of government having failed to properly vet Obama regarding his Article II eligibility, now only the judicial branch of government can right the wrong that the plaintiffs and many other concerned Americans have suffered and address their grievance against the defendants.

160. Only the judicial branch of government can now assure that Congress performs its obligations under the Constitution.

161. Litigation against their own government is the only remedy that the plaintiffs now have. Endnote 26.

COUNT II
(Twentieth Amendment)

GIVEN PLAINTIFFS' AND OTHER CONCERNED AMERICANS' PETITIONS TO DEFENDANTS TO ADDRESS THEIR GRIEVANCES REGARDING WHETHER OR NOT OBAMA IS AN ARTICLE II "NATURAL BORN CITIZEN" AND QUALIFIED TO BE PRESIDENT AND COMMANDER IN CHIEF OF THE UNITED STATES, DEFENDANTS VIOLATED PLAINTIFFS' RIGHTS UNDER THE TWENTIETH AMENDMENT BY FAILING TO CONDUCT AN APPROPRIATE INVESTIGATION AND HEARING THEREUNDER ON WHETHER OBAMA IS AN ARTICLE II "NATURAL BORN CITIZEN" TO ASSURE THEM THAT HE IS QUALIFIED TO BE PRESIDENT AND COMMANDER IN CHIEF OF THE UNITED STATES

162. The introductory allegations set forth in paragraphs 1-161 are realleged herein.

163. Twentieth Amendment, Section 3, provides that Congress must fully qualify the candidate "elected" by the Electoral College Electors.

164. Section 3 provides in pertinent part: "[I]f the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified . . ."

165. There existed significant public doubt and grievances from plaintiffs and other concerned Americans regarding Obama's eligibility to be President and defendants had the sworn duty to protect and preserved the Constitution and specifically under the Twentieth Amendment, Section 3 a Constitutional obligation to confirm whether Obama, once the Electors elected him, was qualified under Article II, Section 1, Clause 5 of the Constitution.

166. Congress is the elected representatives of the American people and the people speak and act through them.

167. Defendants had the duty under the Constitution to the plaintiffs and the American people to verify the President Elect's qualifications under Article II, Section 1, Clause 5 as is required by the Twentieth Amendment, Section 3.

168. Defendants had to insure that the Constitution is upheld and that the President-Elect is qualified in the Constitutional sense and meets the three qualifications found in Article II, Section 1, Clause 5.

169. No other political institution other than defendants had a Constitutional duty to verify the Constitutional qualifications of President Elect Obama.

170. On January 8, 2009, Congress in Joint Session confirmed Obama as the next President of the United States.

171. Hence, Congress had from December 15, 2008 to and including January 8, 2009 to hold a fact finding hearing and subpoena documents and investigate the challenges publicly expressed by plaintiffs and thousands of other Americans regarding whether Obama is an Article II "natural born Citizen" and which were even the subject of numerous law suits filed in our nation's courts.

172. Thus Congress had over 3 weeks to hold a public hearing in the Senate, House, or both to investigate the issue but they did not.

173. When so much doubt had been expressed in the public arena about Obama's eligibility to be President, Congress had a duty to investigate and confirm for the sake of the Constitution and the plaintiffs and other American people which it represents if Obama is so qualified by holding a Congressional hearing and investigation on the matter with full subpoena power.

174. Even though defendants were well aware of the thousands of people including the plaintiffs who had petitioned them so that it could properly investigate Obama's qualifications to be President and that no court of law had accepted any case raising the issue because of standing or some other procedural obstacle, defendants violated the Twentieth Amendment by failing to assure that Obama meets the eligibility requirements of Article II and confirming him as President at a time when there was and continues to be such a national debate regarding Obama's eligibility to be President.

175. Defendants did not due their due diligence in protecting the Constitution and the plaintiffs and the people before confirming Obama to be President before the Joint Session of Congress on January 8, 2009.

176. Defendants held no hearing and simply confirmed Obama's election without any questions, debate, investigation, or request for objections and thereby did not address the plaintiff's and the peoples' grievance regarding Obama's qualifications to be President.

177. Members of Congress had a right to stand and object to the counting of the vote and confirmation of Obama's election until such time that he can conclusively prove

that he is qualified to serve as President of the United States and Commander in Chief of our military.

178. Members of Congress could have stood up and said “point of order,” and objected and demanded a full investigation of Obama’s citizenship status.

179. Defendant Cheney did not give the members of the Senate and House an opportunity to voice objections to each states’ vote.

180. So not only did the Joint Congress fail to vet and investigate Obama’s qualifications to be President under the unique circumstances existing in the public arena and given the petition of the plaintiffs and thousands of people, but Cheney also did not give each member an opportunity to object to any of the votes cast.

181. On January 8, 2009, Congress committed an unconstitutional act of confirming Obama, an ineligible person for President and Commander in Chief under Article II.

182. Congress has failed to exercise its Constitutional duty under the Twentieth Amendment and so now the Court must decide this controversy as a legal matter.

183. Since Congress has acted “unconstitutionally,” the courts now have jurisdiction to hear and decide the merits of plaintiffs’ action against defendants and their constitutional challenge to Obama’s eligibility to be President.

COUNT III
(Fourteenth Amendment)

DEFENDANTS VIOLATED PLAINTIFFS’ FOURTEENTH AMENDMENT PROCEDURAL DUE PROCESS RIGHTS BY FAILING UNDER THE TWENTIETH AMENDMENT TO AFFORD PLAINTIFFS AN OPPORTUNITY TO BE HEARD THROUGH DEFENDANTS, THEIR ELECTED REPRESENTATIVES, AND BY FAILING TO CONDUCT AN APPROPRIATE

**INVESTIGATION AND HEARING ON WHETHER OBAMA IS AN ARTICLE II
“NATURAL BORN CITIZEN” AND QUALIFIED TO BE PRESIDENT AND
COMMANDER IN CHIEF OF THE UNITED STATES**

184. The allegations set forth in paragraphs 1-183 are realleged herein.

185. Defendants by failing to conduct the appropriate investigation and hearing on whether Obama is an Article II “natural born Citizen” and qualifies for the Office of President as called for by the Twentieth Amendment, failed to afford plaintiff’s proper notice and an opportunity to be heard through defendants who are plaintiffs’ elected representatives and thereby deprived plaintiffs of procedural due process under the 14th Amendment to the Constitution.

186. Because defendants denied plaintiff procedural due process, there is no way for them to have their grievances heard except in a court of law.

**COUNT IV
(Quo Warranto)**

187. The allegations set forth in paragraphs 1-186 are realleged herein.

188. Ninth Amendment to the Constitution provides that “[t]he enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.”

189. This Amendment affords a judicial remedy for violations of the Constitution by public officials and agents.

190. Obama has failed to adequately show that he is an Article II “natural born Citizen” and otherwise qualified to hold the Office of President.

191. Obama is not an Article II “natural born Citizen.”

192. Since Obama is not Constitutionally qualified to hold that office, his election to the Office of President is null, void, and of no effect.

193. If Obama is allowed to be the next President of the United States, he will be occupying that office without authority or legitimacy.

194. Obama will commence and will be assuming the Office of President after 12:00 p.m. on January 20, 2009.

195. Obama, by holding the Office of President, is usurping or intruding into or unlawfully holding that office, all to the detriment and injury of the plaintiffs and the people of the United States of America.

196. Obama, as an usurper of the Office of President, is an offender against the dignity of that Office.

197. For Obama to continue to occupy the Office of President is a fraud upon the plaintiffs and the people of the United States.

198. Plaintiffs do not have another ample and sufficient remedy provided by law for the relief sought.

199. Obama should be removed and excluded from the Office of President which he presently holds and be permanently barred from holding that office.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief and judgment as follows:

Re: Obama

1. Immediately stay the swearing in and oath of defendant Barack Hussein Obama II at the January 20, 2009 Presidential inauguration, as well as at any such

inauguration in the future if defendants and/or similarly situated government entities or officials that may replace them have not complied with the orders of the Court.

2. Enjoin Chief Justice John G. Roberts Jr. or any other Supreme Court Justice from administering the Presidential oath of office to defendant Barack Hussein Obama II at the January 20, 2009 inauguration, as well as at any such inauguration in the future if defendants and/or similarly situated government entities or officials that may replace them have not complied with the orders of the Court.

3. Order that Obama suspend all his actions as President of the United States and Commander in Chief until he provides the Court with objective, credible, and sufficient proof of his Article II eligibility to hold those offices.

4. Declare and define what is an Article II “natural born Citizen.”

5. Order that defendant Barack Hussein Obama II has the burden to prove by what authority he holds the Office of President and Commander in Chief of the United States.

6. Order that defendant Barack Hussein Obama II has the burden to prove that he is Article II qualified to hold the Office of President and Commander in Chief of the United States.

7. Order that defendant Barack Hussein Obama II has the burden to prove that he is an Article II “natural born Citizen” as defined by the Court.

8. Order defendant Barack Hussein Obama II to produce for judicial inspection his original Hawaii birth certificate and any and all other documents which would objectively, credibly, and sufficiently show where he was born.

9. Declare that defendant Barack Hussein Obama II is not an Article II “natural born Citizen” as defined by the Court.

10. Declare that defendant Barack Hussein Obama II was not validly elected by the American voters during the General Election of November 4, 2008 and by the Electoral College on December 15, 2008 to the Office of President and Commander in Chief, was not validly confirmed as the winner of that Office by the Joint Session of Congress on January 8, 2009, and that his election and confirmation to that Office is declared null, void, and of no effect.

11. Declare that Obama be removed, excluded, and ousted from the Office of President which he presently holds.

12. Declare that Obama be permanently disqualified from holding the Office of President and Commander in Chief of the United States.

Re: Other Defendants:

13. Declare that defendants violated plaintiffs’ rights under the First Amendment.

14. Declare that defendants violated plaintiffs’ rights under the Twentieth Amendment.

15. Declare that defendants violated plaintiffs’ procedural due process rights under the Fourteenth Amendment.

16. Declare that the January 8, 2009 actions of the Joint Session of Congress in certifying the Electoral College votes and thereby confirming Obama as the winner and elected to the Presidency of the United States violated the Constitution and the plaintiff’s rights thereunder and is therefore invalid, void, and of no effect.

17. Order defendants and/or similarly situated government entities or officials that may replace them to hold Congressional hearings and utilize their Congressional subpoena powers as may be necessary to gather the necessary facts and documents about defendant Barack Hussein Obama II's citizenship status.

18. Order defendants and/or similarly situated government entities or officials that may replace them to compare the facts so gathered to the definition of an Article II "natural born Citizen" as defined by the Court.

19. Order defendants and/or similarly situated government entities or officials that may replace them to decide if defendant Barack Hussein Obama II is an Article II "natural born Citizen" as defined by the Court.

20. Order defendants and/or similarly situated government entities or officials that may replace them to nullify and cancel the election of defendant Barack Hussein Obama II as President of the United States if they determine that he is not an Article II "natural born Citizen" as defined by the Court.

21. Order defendants and/or similarly situated government entities or officials that may replace them to take immediate steps to temporarily fill the Office of President and Commander in Chief under the 20th Amendment.

22. Allow plaintiffs to recover costs, expert witness fees, attorney fees, as may be allowed by law; and

23. Order such other and further relief as the Court may deem proper.

Respectfully submitted,

/s/ Mario Apuzzo

Dated: January 21, 2009

Mario Apuzzo
185 Gatzmer Avenue
Jamesburg, New Jersey 08831
(732) 521-1900
FAX (732) 521-3906
E-mail: apuzzo@erols.com

ENDNOTES

1. It might be noted that Fed. R. Civ. P. Rule 57 states in pertinent part that, "The court may order a speedy hearing of a declaratory-judgment action."

2. Mr. Kerchner swore to support and defend the Constitution in both ways as shown below while serving as an enlisted person, when he enlisted or re-enlisted, and then later when he became a commissioned officer in the U.S. Naval Reserve. The oaths for enlisted persons and commissioned officers are as follows:

"I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I will obey the orders of the President of the United States and the orders of the officers appointed over me, according to regulations and the Uniform Code of Military Justice. So help me God." (Title 10, US Code; Act of 5 May 1960 replacing the wording first adopted in 1789, with amendment effective 5 October 1962).

"I, _____ (SSAN), having been appointed an officer in the _____ of the United States, as indicated above in the grade of _____ do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign or domestic, that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservations or purpose of evasion; and that I will well and faithfully discharge the duties of the office upon which I am about to enter; So help me God." (DA Form 71, 1 August 1959, for officers.)

3. "CNN Electoral Map Calculator-Election Center 2008." CNN.com (2008). Retrieved on 2008-12-14.

4. Scheb, John M., and John M. Scheb II (2002). An Introduction to the American Legal System. Florence, KY: Delmar, p. 6. ISBN 0766827593.

5. Thomas Jefferson: Declaration of Independence, 1776.
6. One reason to doubt the online posted COLB's validity is that at least two document examiners opine that the digital image and the source documents to make the images were forged. This doubt alone is sufficient to require Obama to produce the original long form birth certificate.
7. From Hawaii's official Department of Health, Vital Records [webpage](#): "Amended certificates of birth may be prepared and filed with the Department of Health, as provided by law, for 1) a person born in Hawaii who already has a birth certificate filed with the Department of Health or 2) *a person born in a foreign country*" (applies to adopted children). A parent may register an in-state birth in lieu of certification by a hospital of birth under [HRS 338-5](#). Hawaiian law expressly provides for registration of out-of-state births under [HRS 338-17.8](#). A foreign birth presumably would have been recorded by the American consular of the country of birth, and presumably that would be reflected on the Hawaiian birth certificate. Hawaiian law, however, expressly acknowledges that its system is subject to error. See, for example, [HRS 338-17](#). Hawaiian law expressly provides for verification in lieu of certified copy of a birth certificate under [HRS 338-14.3](#). Even the Hawaii Department of Home Lands does not accept a certification of live birth (COLB) as conclusive evidence for its homestead program. From its [web site](#): "In order to process your application, DHHL utilizes information that is found only on the original *Certificate of Live Birth*, which is either black or green. This is a more complete record of your birth than the *Certification of Live Birth* (a computer-generated printout). Submitting the original *Certificate of Live Birth* will save you time and money since the computer-generated *Certification* requires additional verification by DHHL."

Additionally, at the bottom of the COLB, it states: "This copy serves as prima facie evidence of the fact of birth in any court proceeding." Under the concept of prima facie evidence, the presumption that the fact exists fails when evidence contradicting that fact is presented and in such case the interested party needs to present other competent evidence to prove the existence of that alleged fact. If he fails to do so, the alleged fact is not proven, even if the opposing party produces no further evidence. To date, Obama has presented no additional evidence other than the internet image of his COLB regarding where he was born. Hence, the prima facie validity of the COLB must fail and Obama should be compelled to produce other objective, credible, and sufficient evidence of where he was born.

8. British Nationality Act of 1948
9. The origins of the term "natural born Citizen" and inclusion in the Constitution can be traced to a 1787 letter from John Jay to George Washington. This specifically speaks about the reason for requiring the President to be a "natural born Citizen." It was believed that there would be less of a chance to have foreign influences put upon the President and Commander in Chief of our Army (military forces) if the person serving as the President is a "natural born citizen", i.e., being born on U.S. soil and being second generation via both his parents also being U.S. citizens. There thus would be no claim on

the President from any foreign power and he would have no relatively recent allegiance and influence via family to a foreign power or from family living in a foreign country. Being a "natural born citizen" dramatically reduces the likelihood of such foreign influence. That is why John Jay, who was a major writer in The Federalist Papers which were critical in the ratification process of getting the Constitution approved, requested that the term be inserted into our Constitution. He was one of the founders who was very concerned about foreign influences being exerted on our new nation, especially on the President and Commander in Chief of the Army. He was not concerned about the loyalties of existing "original citizens" of the new country because they had openly fought for independence. And that is why the Article II grandfather clause is in there for them. But John Jay was very concerned about foreign influences on future Presidents and Commander in Chiefs. Thus he wrote the letter to General Washington. Washington agreed and had the clause put in the Constitution and the delegates agreed and approved it and the "We the People" of those days voted for it and ratified it. And it can only be changed now by a new amendment by today's "We the People." Jay would have obtained the term "natural born Citizen" from the leading legal treatise of those times, The Law of Nations (1758), E. Vattel, Book 1, Chapter 19, Section 212. This work was read not only by the Founding Fathers but was also well-known throughout the colonies among the general population. Jay frequently cited this treatise in his writings. Additionally, the term "Law of Nations" is mentioned in the Constitution itself in Article I, Section 8 (defining piracy). There are also many references to The Law of Nations in The Federalist Papers, for the writers relied upon authors such as Vattel, among others. The Journal of Legal History, Volume 23, Issue 2, August 2002, pages 107 – 128.

10. Obama has refused all effort to have him release the following documents, relying on sealing of records and/or privacy laws: Punahou High School records, Occidental College records, Columbia College records, Columbia Thesis paper, Harvard College records, Selective Service Registration, medical records, Illinois State Senate records, Illinois State Senate schedule, Law practice client list, Certified Copy of original Birth Certificate, Harvard Law Review articles that were published, University of Chicago scholarly articles, Record of baptism, if any.

11. Absent constitutional amendment, there is no authority to alter the text of the Constitution, the provisions of which are "fixed and exclusive." United States Term Limits v. Thornton, 514 U.S. 779, 790 (1995) (discussing "the Framers' intent that the [congressional] qualifications in the Constitution be fixed and exclusive."). Hence, if Obama does not like Article II's "natural born Citizen" clause, he cannot unilaterally change the Constitution by simply failing to address its requirements to be President.

12. The Electoral College consists of the popularly elected representatives ("electors") who formally elect the President and Vice President of the United States. Since 1964, there have been 538 electors in each Presidential election. Article II, Section 1, Clause 2 of the Constitution specifies how many electors each state is entitled to have and that each state's legislature decides how its electors are to be chosen; U.S. territories are not represented in the Electoral College. The Electoral College is an example of an indirect election.

13. From August 21, 2008 to December 31, 2008 over a dozen law suits were filed all over this nation and more will probably be filed thereafter. These were individual or class actions in different State and Federal courts. The plaintiffs have been US citizens, voters, electors, different Party officials, and candidates for office, all alleging that Obama's eligibility for Presidency was never verified by any governmental agency and mounting evidence suggests that he does not qualify as an Article II "natural born Citizen" and therefore cannot be sworn as the President of the United States and Commander in Chief. No court decided these cases on the merits.

<http://americamustknow.com/Documents/Summary%2012-31-08.pdf>.

14. The U.S. Supreme court previously heard three cases in conference and denied Leo Donofrio, Cort Wrotnowski, and Philip Berg full hearings. Those lawsuits allege Obama does not meet the "natural born citizen" clause of the U.S. Constitution, Article 2, Section 1. There is another case, Lightfoot et al v. Debra Bowen, California Secretary of State, that remains on the Supreme Court docket for a January 23, 2009 conference.

15. The Constitution requires that Senators and Representatives take an oath to support the Constitution. Congress has prescribed the following oath for new senators:

I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

16. Joint Session of Congress requires a concurrent resolution from both House and Senate to meet. Joint sessions include the counting of electoral votes following a presidential election.

17. Citizens have a right under the First Amendment to petition their government to redress their grievances. First Amendment. Various concerned Americans sent Congress a petition with 217,487 signatures asking them to fully investigate Obama's eligibility to be President before confirming him to be President.

<http://www.wnd.com/index.php?fa=PAGE.view&pageId=81550>;
<http://www.wnd.com/index.php?fa=PAGE.view&pageId=83116>.

Attorney, Orly Taitz, Esq., who represents the plaintiff in the Lightfoot v. Bowen case now pending before the U.S. Supreme Court, wrote a letter to Congress asking them to conduct the necessary investigation into Obama's eligibility to be President. Her letter was addressed to members of Congress and cites the scheduled January 8, 2009 joint meeting at which the Electoral College votes were to be counted and confirmed.

"This urgent letter is a request by your (and Mr. Obama's) employers, We The People, for you to submit an OBJECTION to those votes being counted due to the Constitutional INELIGIBILITY of Barack Hussein Obama, Jr. to serve as POTUS:" the letter starts. It

then cites allegations that Obama has not documented his birth in U.S. territory, has not explained how he returned to being a U.S. citizen after spending years living in Indonesia, has not shown that he was born to two parents holding U.S. citizenship, has not explained his travel to Pakistan in the 1980s when U.S. passports were unwelcome there, and has not shown he registered for the draft between the ages of 18 and 26. The letter explains that there is no proof "he is, in fact, not an illegal alien, and therefore subject to the same penalties that would befall all illegal aliens in his situation." "Therefore, we are calling on you, as a member of Congress, sworn to uphold, protect, and defend that Constitution, to OBJECT to the counting and confirmation of those electoral votes until proof of his eligibility or ineligibility can be determined, and to call for indictments in regard to any and all alleged violations of U.S. laws and one's sworn oath," the letter said. <http://www.wnd.com/index.php?fa=PAGE.view&pageId=84882>.

Concerned Americans even took out full page advertising in the Washington Times National Weekly (no November 17, 2008 and December 8, 2008) and The Chicago Tribune (on December 1, 2008 and December 3, 2008) in which they expressed their concern to their political leaders regarding whether Obama was an Article II "natural born Citizen" and otherwise qualified to be President. The Globe Magazine did two editions with the stories headlined and Obama's picture on the front page questioning in the first (dated December 22, 2008) the legality of the election and the validity of the Certification of Live Birth presented on the internet as proof of his birth place and in the second (dated January 12, 2009) where Obama was born and his citizenship. These magazines are distributed to the public and available for consumption about one week before the official issue date.

18. Plaintiff Kerchner personally petitioned his Members of Congress, Senator Arlen Specter and Representative Charlie Dent, via his letter dated December 31, 2008. He also later sent his letter to, among others, Representative John Boehner, Representative Tom Tancredo, Representative John Linder, Senator Saxby Chandler, Senator Joe Lieberman, and Senator John McCain.

19. No one on Obama's web site or anyone from Snopes or FactCheck ever wrote that Obama is a "natural born citizen." They just said he was a U.S. citizen or at most a native born citizen.

20. See Title 3, Chapter 1, Section 15.

21. Gary Kreep of the United States Justice Foundation has petitioned Occidental College with a demand for its records concerning Obama. The lawsuit on which USJF is working was filed on behalf of presidential candidate Alan Keyes and others, and describes the potential damage an ineligible president could create.

22. The oath of office for the President of the United States is specified in the Constitution's Article II, Section 1. In its entirety, it reads: "I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will

to the best of my Ability, preserve, protect and defend the Constitution of the United States.’’

23. From the “Inaugural Schedule” as given at the Presidential Inaugural Committee’s website at <http://www.pic2009.org/pages/schedule/>, accessed on December 27, 2008.

24. In one of its first actions, Obama instructed military prosecutors late Tuesday, January 20, 2009, to seek a 120-day suspension of legal proceedings involving detainees at the naval base at Guantanamo Bay, Cuba. Military judges have granted the request. Obama is expected to sign an executive order soon that will lay out in detail his plan to empty the facility. <http://www.washingtonpost.com/wp-dyn/content/article/2009/01/20/AR2009012004743.html?hpid=topnews>. <http://www.law.com/jsp/article.jsp?id=1202427612040>.

25. “The natives, or natural-born citizens, are those born in the country, *of parents who are citizens* (emphasis supplied). E. de Vattel, Law of Nations, Book 1, Chapter 19, Section 212 (1758).

26. In N. A. A. C. P. v. Button, 371 U.S. 415 (1963), the Court declared: "Litigation may well be the sole practical avenue open to a minority to petition for a redress of grievances."