

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

Charles F. Kerchner, Jr,	:	Civil Action No. 1:09-cv-00253
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, a/k/a Barry Soetoro;	:	
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.	:	
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SECOND AMENDED VERIFIED COMPLAINT AND PETITION FOR EMERGENCY  
INJUNCTION, DECLARATORY RELIEF, MANDAMUS, AND QUO WARRANTO

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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, Fifth, Ninth, Tenth, 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, Fifth, Ninth, Tenth, and Twentieth Amendments of the Constitution of the United States. As such, this Court has jurisdiction under 28 U.S.C. § 1361. Additionally, this court has ancillary jurisdiction over this action sounding in mandamus pursuant to 28 U.S.C. Sec. 1651(a), for this Court already has original jurisdiction under other statutes already cited herein.
6. This action is also in the nature of a petition for quo warranto under the Ninth and Tenth Amendment to the Constitution, asking that Obama be declared under Article II to be ineligible to hold the Office of President and Commander in Chief and that he be removed from that Office if sworn in and be permanently barred from holding that office.

This Court has jurisdiction over this petition because plaintiffs claim that their right to this writ emanates from their rights and powers under the Ninth and Tenth Amendment. Additionally, this court has ancillary jurisdiction over this petition for quo warranto pursuant to 28 U.S.C. Sec. 1651(a), for this Court already has original jurisdiction over plaintiffs' other claims herein.

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 plaintiff 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 a Commissioned Officer and an Enlisted person. He enlisted with the U.S. Naval Reserve in 1962 as an E-1. He served two years active duty as an enlisted person after which he returned to the U.S. Naval Reserves serving with various drilling reserve units. As a drilling member of the U.S. Naval Reserves, he was advanced at various times until reaching Chief Petty Officer (E-7) in 1970. In 1976 he was commissioned as a U.S. Naval Reserve Officer and was appointed as an Ensign (O-1), serving as a Commissioned Officer for 19 years and was promoted to the rank of a full Commander (O-5) in 1992. He served on active duty for training and drilled with various reserve units until he retired in 1995. Plaintiff took a solemn oath to support and defend the Constitution of the

United States. ENDNOTE 2. It is plaintiff's duty to support and defend the United States Constitution pursuant to that oath. Additionally, while currently 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. ENDNOTE 3. In addition, under the Ninth and Tenth Amendments and as a United States citizen, it his unalienable right to come forward to support and defend the Constitution. ENDNOTE 4. He is a registered member of the Republican Party. He voted in the General Election of November 4, 2008.

9. Plaintiff, **Lowell T. Patterson**, is a citizen of the United States, a resident of the County of Burlington, and State of New Jersey. Under the Ninth and Tenth Amendments and as a United States citizen, it his unalienable right to come forward to support and defend the Constitution. 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. Under the Ninth and Tenth Amendments and as a United States citizen, it his unalienable right to come forward to support and defend the Constitution. 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, plaintiff took a solemn oath to support and defend the Constitution of the United States. It is plaintiff's duty to support and defend the United States Constitution pursuant to that oath. He is a former member of the Marine Reserves and Army National Guard. As such, plaintiff took a solemn oath to support and defend the Constitution of the United States. ENDNOTE 2. It is plaintiff's duty to support and defend the United States Constitution pursuant to that oath. Under the Ninth and Tenth Amendments and as a United States citizen, it his unalienable right to come forward to support and defend the 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), a/k/a **Barry Soetoro**, 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 5. 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 approximately 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 6.

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. As Speaker of the House, she is also constitutionally the presiding officer of all Joint Sessions of Congress except for the Joint Session for counting Electoral votes and certifying, ratifying, and/or confirming the election of the President.

## **INTRODUCTION**

### Nature of the Action

19. "Governments are instituted among men, deriving their just powers from the consent of the governed." ENDNOTE 7.

20. Under our Constitutional Republic form of democratic government which adheres to the rule of law, not even the President Elect, President, or Congress is above the law. ENDNOTE 8.

21. No court of the United States has ever decided the merits of any legal action against a Presidential candidate, President Elect, or sitting President challenging his eligibility to be President based on the "natural born Citizen" requirement of Article II Section 1 of the United States Constitution.

22. To date, no state or federal election official, nor any government authority, has investigated or held hearings and verified that Obama ever established and proved conclusively that he is an Article II "natural born Citizen."

23. Plaintiffs have filed this action against the non-Obama defendants for their violation of plaintiffs' First Amendment right not to have their right to petition their government abridged by their failure to address their First Amendment petitions and grievances filed with them regarding Obama's Article II eligibility to be President.

24. Plaintiffs are also filing and seeking remedies under the Fifth Amendment for the non-Obama defendants' denying them a liberty interest without procedural due process of law, depriving them a liberty interest without substantive due process of law, depriving them of equal protection of the law under the Fifth Amendment, and for their violation of plaintiffs' constitutional rights under the Ninth and Tenth Amendment.

25. This action is brought against the non-Obama defendants because, in light of the great public outcry and plaintiffs' 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 under the Twentieth Amendments by failing on behalf of the plaintiffs and other concerned Americans as their elected representatives to properly vet and verify pursuant to their Constitutional obligation under the Twentieth Amendment, Section 3 whether Obama was born in the United States and is an Article II “natural born Citizen” so as to meet that provision’s citizenship eligibility requirements to be President and to allow and to continue to allow Obama to occupy the Office of President even though he is not qualified to be President under Article II because he is not a “natural born Citizen.”

26. By so failing and given that the non-Obama defendants with much less public demands and grievances, fully investigated, authorized legal scholars to conduct legal research and to present their findings in the form of a legal opinion, held public hearings on the question of whether Republican Presidential candidate John McCain is an Article II “natural born Citizen” and eligible to be President, and even passed Senate Resolution 511 proclaiming that McCain is an Article II “natural born Citizen,” defendants also deprived the plaintiffs of procedural due process and equal protection under the Fifth Amendment in failing to utilize, on their behalf as their democratically elected representatives and through whom plaintiffs speak and assert their constitutional rights, the same procedure they used to investigate McCain and to also use the Constitutional and statutory procedure that exists under the 20<sup>th</sup> Amendment and 3 U.S.C. Sec.15, respectively, for the purpose of conclusively verifying that President-Elect Obama was born in the United States and he is an Article II “natural born Citizen” and otherwise constitutionally qualified for that office and in failing to treat plaintiffs the same as they

treated other similarly situated members of the public who had expressed their concerns for whether McCain was an Article II “natural born Citizen.”

27. By way of mandamus, plaintiffs seek a court order compelling the non-Obama defendants to adequately investigate and hold Congressional hearings under the Twentieth Amendment on the question of whether defendant Obama was born in the United States and is an Article II “natural born Citizen” and otherwise qualified to be President under that Article.

28. This action in the form of mandamus is brought against defendant Obama to compel him to prove that he was born in the United States, that he is an Article II “natural born Citizen,” and that he is Constitutionally eligible to hold the Office of President and Commander in Chief,

29. This action in the form of declaration of rights and quo warranto is brought for the Court to declare that Obama is not Article II qualified to hold the Office of President and Commander in Chief and therefore that the non-Obama defendants removed and permanently barred him from that Office.

#### The Constitutional Republic

30. Under our Constitutional Republic (not a pure democracy), a President Elect must qualify under Article II of the Constitution even if a majority of people in the General Election select/elect his electors, those electors then in turn elect that candidate, and the candidate is thereby declared to be the President Elect.

31. It is the Congress, sitting in Joint Session, under the powers given to it by the Twentieth Amendment, which assures plaintiffs that the President Elect is indeed an

Article II “natural born Citizen” and otherwise constitutionally qualified to hold the Office of President.

Not an Article II “Natural Born Citizen”

32. Obama has not met his burden or otherwise adequately proving that he is an Article II “natural born Citizen” of the United States of America.

33. Unlike all previous elected Presidents of the United States that were born after 1787, Obama is not an Article II “natural born Citizen” of the United States of America.

Not Born In the U.S.A.

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

35. 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 9) 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. Obama’s spokespeople and lawyers have routinely called a **Certification** of Live Birth (COLB) a “Birth **Certificate**” which is a false statement. Rather than producing the original and authentic, long-form, **Certificate** of Live Birth (BC) in support of any of his motions to dismiss actions filed against him, he has incorrectly asked the courts to take judicial notice of public news reports that are erroneous, misleading, and incomplete as proof that he was born in Hawaii. ENDNOTE 10.

36. Under Hawaiian law, a computer-generated **Certification** of Live Birth (COLB) is only prima facie evidence of a birth event and is not a **Certificate** of Live Birth (Birth Certificate). ENDNOTE 11.

37. When we consider the following contradictory evidence, the prima facie quality of the **Certification** of Live Birth (COLB) must fall.

38. The Hawaii Department of Home Lands does not accept a **Certification** of Live Birth (COLB) as conclusive evidence for its Homeland 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."

39. The **Certification** of Live Birth (COLB) does not provide the name of the hospital where the birth occurred, the name of the doctor or other person assisting in the birth, or other independently verifiable contemporaneous facts, all of which are vital corroborating evidence as to where a birth has taken place.

40. The Hawaiian law that existed in 1961 when Obama was born (Chapter 338-178 Hawaiian Statutes which applied for all births prior to 1972), which allowed parents to register their foreign born babies in Hawaii, was lax in terms of assuring the integrity of the documents and did not adequately safeguard against fraud in the process.

41. 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 law, 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.

42. The document image posted on the internet is a scan of the **Certification** of Live Birth (COLB) document that can be easily manipulated and changed using modern computer software technology. The public and independent document examiners have not been allowed by Obama to see, handle, or examine the source paper document, the COLB.

43. The last two document examiners opine that the digital image and the source paper documents COLB used to make the images were forged. This doubt alone is sufficient to require Obama to produce the original, long form, **Certificate** of Live Birth (Birth Certificate).

44. Obama's Kenyan paternal step-grandmother, Sarah Hussein Obama, "a very intelligent and educated citizen of Africa, a former teacher and respected evangelist throughout Africa" (October 27, 2008 Affidavit of Bishop Ron McRae), on October 16, 2008 stated twice to the repeated question that she was present at Obama's birth in Mombasa, Kenya, per Affidavits of Bishop Ron McRae and of Rev. Kweli Shuhubia (actual name withheld for safety reasons) 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. According to Kweli Shuhubia's affidavit, upon being pressured by family members who were present during the interview, she changed her statement and then said Obama was born in Hawaii. The step-grandmother never recanted that she was present during Obama's birth

and neither Obama's grandmother nor anyone else present during the interview could explain how the step-grandmother could be present during Obama's birth if he was born in Hawaii.

45. Following Kweli Shuhubia's interview with Obama's step-grandmother, he traveled to Mombasa, Kenya to the hospital where Obama was born. He then states in his affidavit: "I interviewed personnel at the hospital in which Senator Obama was born in Kenya. I then had meetings with the Provincial Civil Registrar. I learned there were records of Ann Dunham giving birth to Barack Hussein Obama, III in Mombosa [sic], Kenya on August 4, 1961. I spoke directly with an Official, the Principal Registrar, who openly confirmed the birthing records of Senator Barack H. Obama, Jr. and his mother were present, however, the file on Barack H. Obama, Jr. was classified and profiled. The Official explained Barack Hussein Obama, Jr. birth in Kenya is top secret."

46. 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," when specifically asked about "President-Elect Obama[ 's]" birth place that he 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.

47. Obama's half sister, Maya Soetoro Ng, and Obama have made conflicting statements concerning in which Hawaiian hospital he was born. She says he was born in

Kapiolani Hospital in Hawaii but Senator Obama in his biography posted on Wikipedia says he was born in Queens Hospital in Hawaii.

48. There is no Hawaiian hospital that has verified and confirmed that baby Obama and/or his mother were present in any such hospital at the time of Obama's alleged birth in Honolulu.

49. Attorney Philip Berg has served subpoenas on the hospitals mentioned by Obama and his half sister as the place where Obama was born to obtain the medical records which would show the fact of Obama being born in either one of them but Obama has refused to sign the consent that the hospitals need to release the documents.

50. Not a single person has come forward, not a doctor, nurse, hospital administrator, nor any one else who may have been a witness to Obama's alleged Hawaii birth.

51. For reasons known only to him and relying on state privacy laws, Obama has refused to publicly release his original **Certificate** of Live Birth (BC) even though in his book, Dreams from My Father, he stated that he has it.

52. Fightthesmears.com, Factcheck.org, and Snopes.com have not provided any credible and sufficient corroborating evidence on the birth place issue after the questionable COLB was posted on the internet and discredited by at least two digital image and document examiners.

53. Obama has refused all efforts 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 the original, long form, **Certificate** of Live Birth (Birth Certificate), Harvard Law Review articles that were published, University of Chicago scholarly articles, exit and entry immigration records covering all of Obama's travels out of the United States; passports; and record of baptism, if any;

54. Obama stated publicly in San Francisco to a group of voters in 2008 that he traveled to Pakistan and we know that at the time such travel was prohibited to Americans using an U.S. passport.

55. Obama has used various other names in the past, one of which is Barry Soetoro and there is no known evidence that he did any legal name change to Barack Obama.

56. Other than a lone and questionable newspaper birth announcement, there does not exist one known corroborating document of any kind showing that Obama was born in Hawaii.

57. Obama has remained silent and has not declared publicly after his COLB was put into question that he was born in Hawaii.

58. 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>

59. No member of the media, political party, the Executive Branch of Government, Congress, other political institution, Judiciary, or law enforcement entity has publicly stated that he or she has any independently verifiable and credible source documents that show that Obama was born in Hawaii.

60. New Mexico Governor Bill Richardson publicly stated during the 2008 campaign that Obama was an “immigrant.”

[http://www.youtube.com/watch?v=s5OUdj\\_YIpo](http://www.youtube.com/watch?v=s5OUdj_YIpo).

61. Despite all the law suits that have been filed against Obama, he continues to refuse to release his original, long form, **Certificate** of Live Birth (Birth Certificate) and has opted instead to spend large sums of money using lawyers to defend himself and to cause the courts and litigants to expend large amounts of time and resources pursuing litigation against him and other third parties. He relies on procedural and other threshold arguments such as jurisdiction, justiciability, standing, political question, separation of powers, mootness, and ripeness rather than simply produce his original **Certificate** of Live Birth (Birth Certificate) and make a motion for summary judgment with prejudice as to the merits so that no other future cases can be brought against him and others on that issue which would then put an end not only to the ongoing drain of money, time, and other resources but also to the great public outrage that continues to brew regarding his birth place controversy.

62. This Himalayan mountain of contradictory evidence is sufficient to cause the prima facie presumption of the COLB to fall.

63. Obama therefore now has the burden to come forward with competent evidence to prove that he was born in Hawaii.

64. To date he has failed to come forward with that competent evidence.

65. Obama has never publicly produced any type of copy of his **Certificate** of Live Birth (Birth Certificate). ENDNOTE 12.

66. Obama has decided, for whatever reason, not to release a bona fide copy of his original **Certificate** of Live Birth (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, and other independently verifiable facts thereon.

67. Obama wants to be President of the United States and if a Hawaiian **Certificate** of Live Birth (Birth Certificate) exists as his campaign has stated, he should simply order that it be made available to the general public, investigative authorities, and document examiners to settle his birth place controversy.

68. But Obama has refused any such public disclosure and/or independent examination.

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

70. It is not known whether the **Certificate** of Live Birth (Birth Certificate) on file with the Hawaii Department of Health indicates a Hawaiian birth or whether it was generated after someone registered a Kenyan or other foreign birth in Hawaii.

Obama's Father Not a U.S. Citizen

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

72. 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 13.

73. 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.

74. 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.

75. Under the definition of an Article II “natural born Citizen,” Obama therefore cannot be a “natural born Citizen.” ENDNOTE 14.

#### Obama’s Adoption

76. 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.

77. 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. His school records indicate his citizenship as Indonesian.

78. 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.

#### Obama May Be An Illegal Alien

79. There exists a possibility that Obama could be an illegal alien.

80. Obama has yet to adequately prove that he was born in the United States.

81. Obama has publicly conceded that his father was born in Kenya and a British subject/citizen at the time of Obama’s birth which precluded Obama from gaining any U.S. citizenship from his father at the time of his birth.

82. At the time of his birth in 1961, under the applicable statute Obama also could not gain U.S. citizenship from his U.S. citizen mother due to her being only 18 years old at the time of his birth. ENDNOTE 15.

83. There also exists the possibility that if Obama had U.S. citizenship at birth, he lost that citizenship when his mother's second husband, Lolo Soetoro, an Indonesian citizen, adopted/acknowledged him as his son and along with his mother took him to live in Indonesia and when he later traveled as a foreign citizen with a foreign passport to Pakistan after the age of majority (18) when he was approximately 20.

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

84. 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

85. The Democratic National Committee (DNC) did not adequately vet and verify Obama's Article II "natural born citizenship" by having a disinterested third party adequately examine his original long-form birth records in the vaults in Hawaii, communicate to the DNC as to its origins and content, and provide to the DNC a certified true copy of Obama's original long form **Certificate** of Live Birth (BC).

86. The DNC could have requested and obtained certified copies but never did.

87. The DNC has not signed any affidavit that it investigated and conclusively proved that Obama is an Article II "natural born citizen" of the U.S.

88. 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.

89. Nancy Pelosi merely signed an affidavit to most states certifying that Obama was nominated.

90. In most States, Pelosi never addressed the issue of his Article II "natural born citizenship" qualifications to serve in any documents the DNC gave to the respective states.

91. No where in the nominating documents that Pelosi provided to most States does it say he is qualified to serve as President per the Article II Constitutional requirements, if he is elected. ENDNOTE 16.

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

92. 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.

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

94. 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.

95. 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."

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

97. 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

98. 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

99. 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.

100. The Main Stream Media (MSM) did not do sufficient investigative reporting which caused the plaintiffs and other concerned Americans to be denied the needed information to verify whether or not Obama is an Article II “natural born Citizen.”

101. Fightthesmears.com, FactCheck.org, and Snopes.com, internet web sites, were relied upon as the final arbiters of the truth but those organizations only provided to the American people superficial and incomplete information on Obama provided by the Obama campaign.

102. Obama continues to rely on such internet sources which are not authoritative or competent evidence for providing the answer to the question of whether Obama is an Article II “natural born Citizen.”

103. 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 place of birth and/or his Article II “natural born Citizenship” status.

ENDNOTE 17.

104. Thus the plaintiffs and the people were deprived of the so called “4<sup>th</sup> 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.

105. Obama has sealed most of his important documents that would shed light on his place of birth and/or his Article II “natural born Citizenship” status and the Main Stream Media (MSM) has not challenged him as to why he did so. ENDNOTE 18.

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

107. This is not the usual role the media takes in this country.

108. The Main Stream Media (MSM) 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 Commission on Presidential Debates (CPD) on Behalf of the Plaintiffs and the People

109. The Commission on Presidential Debates (CPD), the non-partisan entity which organized the Presidential and Vice Presidential debates for the last five prior general elections, declares in its Candidate Selection Process written materials that its goal is to educate the general public regarding who the candidates are.

110. Its announcement also states that it is obligated to conduct those debates in keeping with all “legal requirements,” including the regulations of the Federal Election Commission that the debate sponsor extends invitations to debate based on “pre-established, objective” criteria. ENDNOTE 19.

111. The CPD then describes what the criteria are and, among other things, states that only an Article II constitutionally qualified individual will be allowed to take part in the Presidential debates.

112. Its rules go on to state that “evidence” that this requirement is satisfied is if the candidate is, among other things, “a Natural Born Citizen of the United States.”

113. But simply stating what type of citizenship will satisfy the requirements of Article II is not “evidence” that the requirement has been met, for simply confirming what the standard is does not provide evidence that the citizenship status in fact exists for a candidate or for a President Elect.

114. The flaw in the CPD rules is that they do not provide any evidentiary standard which a candidate must meet in order to adequately satisfy the requirement that he or she is an Article II “natural born Citizen” and otherwise constitutionally qualified to hold the Office of President.

115. The CPD did not review Obama’s original **Certificate** of Live Birth (Birth Certificate) or some other documents of comparable reliability and completeness to adequately verify whether Obama was an Article II “natural born Citizen” and therefore met its rules of debate.

116. Such a flaw in its rules and procedure greatly mislead the American public and voters.

117. The potential for the CPD to have mislead the American public and voters is even so much greater when we consider that its rules state that only a “Natural Born Citizen of the United States” is allowed to debate and the CPD allowed Obama to debate which would have lead the media, our political and social institutions, and other informed members of the public to erroneously conclude based on the misleading CPD’s criteria that the CPD adequately verified that Obama was in fact an Article II “natural born Citizen.”

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

118. The Electoral College received numerous letters urging its electors to review the Article II “natural born Citizen” controversy involving Obama. ENDNOTE 20.

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

120. 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.

121. 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 support and defend 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 in public with his own spoken words.

Vetting Through Litigation on Behalf of the Plaintiffs and the People

122. There is a long list of legal cases challenging Obama’s eligibility to be President. ENDNOTE 21.

123. 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.

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

125. 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://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)

126. Justices have so far declined to give any of the cases full hearings on their merits. ENDNOTE 22.

127. To date the courts have denied legal challenges finding that plaintiffs lack standing and for other procedural obstacles.

128. 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 and challenged via the political process.

129. But the political process has now ended and it failed to observe and uphold the Constitution, even with the questions being asked by plaintiffs and many people to properly vet Obama's exact citizenship status.

#### When Obama Was "Elected" President

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

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

132. 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

133. 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. ENDNOTE 23

134. The Congress exhibited an unconstitutional bias in how it utilized its Constitutional powers and authority of investigation in favor of Obama and against McCain.

135. The Congress responded to concerned citizens' questions about McCain's citizenship and ordered legal research on the matter and held hearings thereon.

136. Plaintiff Kerchner and concerned citizens wrote Congress numerous grievance letters regarding Obama's Article II citizenship status and some of these citizens even filed lawsuits against Obama on the question of his Constitutional eligibility but Congress did absolutely nothing to verify his exact citizenship status.

137. There was far less hue and cry from the people about McCain's citizenship status than about Obama's, but Congress gave the people concerned about McCain's citizenship status due process and heard their grievances by requesting legal research on his citizenship status by prestigious constitutional lawyers, conducting hearings, taking testimony, and passing a resolution stating that McCain was a "natural born Citizen" but

did nothing for the plaintiffs and other concerned Americans concerning their petitions, grievances, and questions about Obama's citizenship status.

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

139. So Congress has not properly investigated this issue concerning Obama as it did for McCain.

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

141. 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."

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

143. If there existed any significant public doubt regarding his eligibility to be President, Congress had the duty under the Twentieth Amendment, Section 3 to conclusively verify whether Obama, once the Electors elected him to be the President Elect, was qualified under Article II, Section 1, Clause 5 of the Constitution. ENDNOTE 24.

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

145. 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.

146. Congress is responsible for insuring the person they are going to legally and constitutionally certify, ratify, and/or confirm as President of the United States and Commander in Chief is fully and conclusively qualified under our Constitution.

147. 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.

148. It is critical that only an Article II qualified person be certified, ratified, and/or 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 showing he is not an Article II "natural born Citizen," blackmail him to the detriment of the United States.

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

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

151. 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.

152. Obama, as the President Elect, was subject to the "qualification" clause of the Twentieth Amendment from December 15, 2008, when the Electoral College elected him.

153. Each member of the U.S. House of Representatives and Senate has a constitutional duty under the Twentieth Amendment 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 Article II eligibility of any would-be President.

154. On January 8, 2009, Congress in Joint Session certified, ratified, and/or confirmed Obama as the next President of the United States even though he is not an Article II "natural born Citizen." ENDNOTE 25.

155. 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. ENDNOTE 26.

156. 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.

157. When so much doubt has been expressed in the public arena about Obama's eligibility to be President, Congress had a constitutional duty to investigate and verify for the sake of the Constitution and the plaintiffs and other concerned and frustrated American people which it represents if Obama is Article II qualified by holding a

Congressional hearing and investigation on the matter with full subpoena power.

ENDNOTE 27.

158. Even though Congress was well aware of the thousands of people including the plaintiff Kerchner who had petitioned Congress to make it aware so that it could properly investigate Obama's qualifications to be President (ENDNOTE 28) and that no court of law had accepted any case raising the issue because of standing, the political question doctrine, or some other procedural obstacle, Congress violated the Twentieth Amendment by failing to assure that Obama meets the eligibility requirements of Article II and certifying, ratifying, and/or 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.

159. Congress did not do its constitutionally required due diligence in protecting the Constitution and the plaintiffs and the people before certifying, ratifying, and/or confirming Obama to be President before the Joint Session of Congress on January 8, 2009.

160. At the time that Congress was faced with the certifying, ratifying, and/or confirmation of the President Elect, all courts refused to decide the eligibility question on the merits because the courts probably considered the matter was still in the political sphere.

161. Congress knew that the courts were expecting it to resolved Obama's Article II eligibility question and should have taken the lead while the issue was still in the political arena and not force the courts to later have to take action in this matter. Congress as one branch of our government had its own sworn duty to uphold the Constitution and

should not have expected the judicial branch of government to resolve the question of whether Obama is an Article II “natural born Citizen.”

162. 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.

163. The Joint Session of Congress could at least 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 certifying, ratification, and/or confirmation vote.

164. Some Members of Congress told concerned Americans who wrote to them expressing their concerns regarding Obama’s Article II eligibility to be President that the courts were the proper branch of government in which the question had to be decided, some said that the Hawaii state officials had already verified or confirmed that Obama was born in Hawaii, and some said that Congress had no power to investigate Obama’s qualifications to be President. ENDNOTE 29.

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

166. But that is what Congress did and members even mentioned Snopes.com in letters to constituents as proof that Obama is an Article II “natural born Citizen,” even though Snopes.com never literally so stated. ENDNOTE 30.

167. 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.

168. Congress should have subpoenaed the original, long form **Certificate of Live Birth** (Birth Certificate), witnesses, and documents that are necessary to corroborate Obama's claim that he was born in Hawaii.

169. The **Certificate of Live Birth** (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 verify and confirm that Obama was in fact born in Hawaii.

170. 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.

171. 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, (ENDNOTE 31) and all other visas and travel documents for his entire life under any alias or a/k/a names Obama may have had used. ENDNOTE 32.

172. But Congress did none of this and simply certified, ratified, and/or

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.

173. Members of Congress had a right to stand, say "point of order, and object to the counting of the vote and certifying, ratifying, and/or 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.

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

175. 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.

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

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

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

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

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

181. 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=Burr#p7265>.

182. Pursuant to Title 3 of the U.S. Code, Cheney was required to openly call for objections to each state's vote after each individual state's vote is read. Cheney failed to satisfy this minimum procedural requirement. ENDNOTE 33.

183. 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 other people, but Cheney violated 3 U.S.C. Sec. 15 by not openly calling for objections after each state's votes were announced.

184. On January 8, 2009, Congress committed an unconstitutional act of certifying, ratifying, and/or confirming Obama, an ineligible person for President and Commander in Chief of the United States under Article II.

185. While plaintiffs attempted to resolve their dispute with defendants through the political process, their efforts have failed.

186. 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.

187. Since Congress refused to decide this grave matter through the political process, has refused and failed to provide to plaintiffs accountability that supports a constitutional system grounded on the rule of law, 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 Article II 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

188. 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 34.

Questions Remain Unanswered Regarding the Identity of Obama

189. 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

190. It has been announced that on January 20, 2009, "President-elect Barack H. Obama will take the Oath of Office (ENDNOTE 35) administered by the Chief Justice of the United States, the Honorable John G. Roberts, Jr." ENDNOTE 35.

191. 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.

192. On January 20, 2009, Rev. Rick Warren during his invocation falsely said that Obama is the son of an immigrant, for Obama's father was neither an immigrant nor a legal permanent resident of the U.S.

193. On January 20, 2009, after 12 Noon, Obama became the 44<sup>th</sup> President of the United States and Chief Justice Roberts administered the oath of office to Obama. Due to an error in administering the oath at the public ceremony, Chief Justice Roberts privately administered the oath a second time to insure the oath met the Constitutional standard.

Obama's Waiver of His Privacy Rights in His **Certificate** of Live Birth (BC)

194. On January 21, 2009, National Public Radio's Scott Horsely reported from the White House and stated on NPR radio that Obama's Press Secretary, Robert Gibbs, said from the White House to the media that "we have the birth certificate if you want to see it." (quote of Horsely and not of Gibbs).

195. Accepting Gibb's White House offer to see the "birth certificate," attempts have been made to obtain a copy of Obama's "birth certificate" but such efforts have so far failed, for the White House has not so far provided any such document.

ENDNOTE 37.

Irreparable Harm

196. 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.

197. Because Obama is not a “natural born Citizen” as required by Article II, a 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.

198. 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 38.

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

## CAUSES OF ACTION

### COUNT I

#### (First Amendment-Abridged Right to Petition the Government v. Non-Obama Defendants)

**THE NON-OBAMA DEFENDANTS VIOLATED PLAINTIFF KERCHNER’S RIGHTS UNDER THE FIRST AMENDMENT BY ABRIDGING HIS RIGHTS TO PETITION HIS GOVERNMENT FOR A REDRESS OF GRIEVANCES WHEN THEY UNJUSTIFIABLY FAILED TO ADDRESS AND IGNORED PLAINTIFF’S PETITIONS TO THEM TO INVESTIGATE WHETHER OR NOT OBAMA IS AN ARTICLE II “NATURAL BORN CITIZEN” AND QUALIFIED TO BE PRESIDENT AND COMMANDER IN CHIEF OF THE UNITED STATES**

200. 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.”

201. 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 39.

202. 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."

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

204. 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.

205. Plaintiff has his redress right under the First Amendment to bring to the attention of his government a wrong that he believes should be corrected.

206. But even though plaintiff and many other concerned Americans petitioned the non-Obama defendants to redress their grievances regarding whether Obama is an Article II "natural born Citizen," they simply ignored plaintiff's pleas and in effect adhered to an unwritten law, rule or order to ignore the plaintiff's petitions.

207. Congress's inaction, bias toward Obama, and indifference toward plaintiff's and many other concerned Americans' grievances concerning whether Obama is an Article II "natural born Citizen," which is a matter of grave national concern and which continues to be a subject of great public debate and litigation, made a law or rule ipso facto abridging the right of the plaintiff to petition his government for the redress of grievances, and thus violated the plaintiff's rights under the First Amendment.

ENDNOTE 40.

208. Congress acted improperly and unconstitutionally in not investigating and

conducting hearings at the requests of plaintiff and other concerned Americans under the 20th Amendment on the question of whether Obama is an Article II “natural born Citizen.”

209. Holding government officials accountable is vital to our Constitutional Republic.

210. Also vital to our Constitutional Republic is allowing each branch of government to perform its official duties without unnecessary or inappropriate interference from the other branches.

211. The right to petition their government includes within it the right of the people to sue their government.

212. 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 plaintiff has suffered and address his grievance against the defendants for not supporting and defending the Constitution.

213. Only the judicial branch of government can now order that Congress performs its obligations under the Constitution and that its members live up to their sworn oath.

214. Litigation against his own government is the only remedy that the plaintiff Kerchner now has. ENDNOTE 41.

## **COUNT II**

### **(Fifth Amendment-Procedural Due Process v. Non-Obama Defendants)**

**THE NON-OBAMA DEFENDANTS VIOLATED PLAINTIFFS’ FIFTH AMENDMENT RIGHTS BY DEPRIVING THEM OF A LIBERTY INTEREST WITHOUT PROCEDURAL DUE PROCESS OF LAW BY FAILING UNDER THE PROCEDURAL GUIDELINES OF THE TWENTIETH AMENDMENT AND**

**3 U.S.C. 15 TO AFFORD PLAINTIFFS AN OPPORTUNITY TO BE HEARD THROUGH THEIR ELECTED REPRESENTATIVES AND BY FAILING TO CONDUCT AN APPROPRIATE CONGRESSIONAL INVESTIGATION AND HEARING ON WHETHER OBAMA WAS BORN IN THE UNITED STATES AND WHETHER HE IS AN ARTICLE II “NATURAL BORN CITIZEN” AND QUALIFIED TO BE PRESIDENT AND COMMANDER IN CHIEF THEREOF**

215. The allegations set forth in paragraphs 1- 214 are realleged herein.

216. The Fifth Amendment to the Constitution provides:

“No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.”

217. Plaintiffs have an inalienable liberty interest in securing for themselves safety, security, welfare, peace, tranquility, and prosperity.

218. As the plaintiffs’ elected representative, the President performs functions that go to the heart of representative government.

219. As part of that same liberty interest, the plaintiffs can therefore demand that the President, who represents the broad interest of United States citizens, meets the citizenship status of Article II of the Constitution.

220. The President of the United States is the Commander in Chief of the armed forces and as the Chief Executive Officer is responsible for protecting the plaintiffs and the United States both domestically and internationally from all enemies foreign and domestic and assuring that the laws are faithfully executed.

221. While the power to declare war is constitutionally given to Congress, the President commands and directs the military and plans military strategy and can order the use of military force without immediate Congressional approval or a Congressional declaration of war.

222. The President also directs foreign policy.

223. The President is also to provide an institutional check and balance against the power of the other two branches of government, the Legislative and the Judiciary.

224. The President also has the power to sign into law and veto bills passed by Congress, create a cabinet of advisers, grant pardons and reprieves, make treatise, and appoint federal officers, ambassadors, federal judges, and thousands of other government personnel.

225. The President, while not having any constitutional power to directly introduce legislation, often shapes legislation through his political party and even can propose law to a member of Congress who will then directly introduce the law.

226. Given the President's great constitutional powers, that the plaintiffs are assured that the person occupying the Office of President is Article II qualified is a matter of utmost concern and critical to their own safety, security, welfare, peace, tranquility, and prosperity.

227. Given that the United States has a Constitutional Republic form of democratic self-government, plaintiffs have a fundamental interest in knowing who their President is which includes knowing whether he was born in the United States, if not, where he was born, and whether he is an Article II "natural born Citizen" which is a constitutional eligibility requirement to be President.

228. Defendants failed to conduct an appropriate Congressional investigation, necessary legal research, and Congressional hearings on whether Obama was born in the United States and whether he is an Article II “natural born Citizen” and qualifies for the Office of President as called for by the Twentieth Amendment.

229. Defendants Senate and House, sitting in Joint Session, failed to vet and investigate Obama’s Article II qualifications to be President under the unique circumstances existing in the public arena and given the petitions of the plaintiffs and thousands of other people.

230. Defendant Cheney violated 3 U.S.C. Sec. 15, when he failed to openly call for objections to each state’s vote after each state's vote was read.

231. Defendant Cheney did not give the members of the Senate and House an opportunity to be heard and to voice objections to each and every state’s vote.

232. Defendant Cheney’s (acting as the Presiding Officer of the Joint Session of Congress) failure under 3 U.S.C. Sec. 15 to afford plaintiff’s proper notice and an opportunity to be heard through their elected members of Congress and Congress’s failure under the Twentieth Amendment to conduct an appropriate Congressional investigation, necessary legal research, and Congressional hearings on whether Obama was born in the United States and whether he is an Article II “natural born Citizen” and qualifies for the Office of President caused plaintiffs to be deprived of their liberty right to know whether Obama was born in the United States and whether he is an Article II “natural born Citizen” without procedural due process under the Fifth Amendment to the Constitution.

233. Plaintiffs are now forced to live their lives feeling unsafe, insecure, and in fear for their peace, tranquility, and prosperity because the non-Obama defendants have deprived plaintiffs of the liberty interest to know whether Obama was born in the United States and whether he is an Article II “natural born Citizen.”

234. Because the non-Obama defendants have denied plaintiffs this liberty interest without their procedural due process rights under the Twentieth Amendment and 3 U.S.C. Sec. 15 which constitutional amendment and statute were designed to allow them through their elected representatives to protect that liberty interest through the political process, there is no other way for them to now protect that liberty interest other than by bringing this legal action against Obama so that the judicial branch of government may grant them the necessary relief.

**COUNT III**  
**(Fifth Amendment-Substantive Due Process v. Obama)**

**DEFENDANT OBAMA VIOLATED PLAINTIFFS’ FIFTH AMENDMENT RIGHTS BY DEPRIVING THEM OF A LIBERTY INTEREST WITHOUT SUBSTANTIVE DUE PROCESS OF LAW BY COMMENCING AND CONTINUING THE OCCUPATION OF THE OFFICE OF PRESIDENT WHILE REFUSING TO HONOR THEIR REQUESTS PURSUANT TO ARTICLE II THAT HE PROVE THROUGH CREDIBLE, OBJECTIVE, AND SUFFICIENT EVIDENCE THAT HE WAS BORN IN THE UNITED STATES AND IS AN ARTICLE II “NATURAL BORN CITIZEN” THEREOF**

235. The allegations set forth in paragraphs 1- 234 are realleged herein.

236. The Fifth Amendment to the Constitution provides:

“No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due

process of law; nor shall private property be taken for public use, without just compensation.”

237. Plaintiffs have an inalienable liberty interest in securing for themselves safety, security, welfare, peace, tranquility, and prosperity.

238. As the plaintiffs’ elected representative, the President performs functions that go to the heart of representative government.

239. As part of that same liberty interest, the plaintiffs can therefore demand that the President, who represents the broad interest of United States citizens, meets the citizenship status of Article II of the Constitution.

240. The President of the United States is the Commander in Chief of the armed forces and as the Chief Executive Officer is responsible for protecting the plaintiffs and the United States both domestically and internationally from all enemies foreign and domestic and assuring that the laws are faithfully executed.

241. While the power to declare war is constitutionally given to Congress, the President commands and directs the military and plans military strategy and can order the use of military force without immediate Congressional approval or a Congressional declaration of war.

242. The President also directs foreign policy.

243. The President is also to provide an institutional check and balance against the power of the other two branches of government, the Legislative and the Judiciary.

244. The President also has the power to sign into law and veto bills passed by Congress, create a cabinet of advisers, grant pardons and reprieves, make treatise, and appoint federal officers, ambassadors, federal judges, and thousands of other government personnel.

245. The President, while not having any constitutional power to directly introduce legislation, often shapes legislation through his political party and even can propose law to a member of Congress who will then directly introduce the law.

246. Given the President's great constitutional powers, that the plaintiffs are assured that the person occupying the Office of President is Article II qualified is a matter of utmost concern and critical to their own safety, security, welfare, peace, tranquility, and prosperity.

247. Adequately knowing who their President is includes knowing whether he was born in the United States, if not, where he was born, and whether he is an Article II "natural born Citizen" which is an eligibility requirement to be President.

248. Plaintiffs have a liberty interest in knowing the true identity of their President which includes knowing whether he was born in the United States and whether he is an Article II "natural born Citizen."

249. Given that the United States has a Constitutional Republic form of democratic self-government, plaintiffs have a fundamental interest in knowing who their President is which includes knowing whether he was born in the United States, if not, where he was born, and whether he is an Article II "natural born Citizen" which is a constitutional eligibility requirement to be President.

250. Defendant Obama has deprived the plaintiffs of this liberty interest without due process of law in that he continues to occupy the Office of President and still refuses to provide to plaintiffs credible, objective, and sufficient evidence showing that he was born in the United States and that he is an Article II "natural born Citizen," showing that

are constitutionally required of him under that article to be eligible to hold the office of President.

251. Plaintiffs are now forced to live their lives feeling unsafe, insecure, and in fear for their peace, tranquility, and prosperity because the non-Obama defendants have deprived plaintiffs of the liberty interest to know whether Obama was born in the United States and whether he is an Article II “natural born Citizen.”

252. Because Obama has denied plaintiffs this liberty interest without due process of law, there is no other way for them to now to protect this right other than by bringing this legal action against Obama so that the judicial branch of government may grant them the necessary relief.

#### COUNT IV

##### (Fifth Amendment-Substantive Due Process v. Non-Obama Defendants)

**THE NON-OBAMA DEFENDANTS VIOLATED PLAINTIFFS’ FIFTH AMENDMENT RIGHTS BY DEPRIVING THEM OF A LIBERTY INTEREST WITHOUT SUBSTANTIVE DUE PROCESS OF LAW BY ALLOWING OBAMA TO COMMENCE AND CONTINUE THE OCCUPATION OF THE OFFICE OF PRESIDENT WHILE REFUSING TO HONOR THEIR REQUESTS UNDER ARTICLE II AND THE TWENTIETH AMENDMENT THAT THEY ADEQUATELY CONFIRM WHETHER OBAMA WAS BORN IN THE UNITED STATES AND THAT HE IS AN ARTICLE II “NATURAL BORN CITIZEN” THEREOF**

253. The allegations set forth in paragraphs 1- 252 are realleged herein.

254. The Fifth Amendment to the Constitution provides:

“No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.”

255. Plaintiffs have an inalienable liberty interest in securing for themselves safety, security, welfare, peace, tranquility, and prosperity.

256. As the plaintiffs' elected representative, the President performs functions that go to the heart of representative government.

257. As part of that same liberty interest, the plaintiffs can therefore demand that the President, who represents the broad interest of United States citizens, meets the citizenship status of Article II of the Constitution.

258. The President of the United States is the Commander in Chief of the armed forces and as the Chief Executive Officer is responsible for protecting the plaintiffs and the United States both domestically and internationally from all enemies foreign and domestic and assuring that the laws are faithfully executed.

259. While the power to declare war is constitutionally given to Congress, the President commands and directs the military and plans military strategy and can order the use of military force without immediate Congressional approval or a Congressional declaration of war.

260. The President also directs foreign policy.

261. The President is also to provide an institutional check and balance against the power of the other two branches of government, the Legislative and the Judiciary.

262. The President also has the power to sign into law and veto bills passed by Congress, create a cabinet of advisers, grant pardons and reprieves, make treatise, and appoint federal officers, ambassadors, federal judges, and thousands of other government personnel.

263. The President, while not having any constitutional power to directly introduce legislation, often shapes legislation through his political party and even can propose law to a member of Congress who will then directly introduce the law.

264. Given the great constitutional power given to the Office of President, that the plaintiffs know who the person is who is occupying that Office is a matter of utmost concern and critical to their own safety, security, welfare, peace, tranquility, and prosperity.

265. Adequately knowing who their President is includes knowing whether he was born in the United States, if not, where he was born, and whether he is an Article II “natural born Citizen” which is an eligibility requirement to be President.

266. Plaintiffs have a liberty interest in knowing the true identity of their President which includes knowing whether he was born in the United States and whether he is an Article II “natural born Citizen.”

267. Given that the United States has a Constitutional Republic form of democratic self-government, plaintiffs have a fundamental interest in knowing who their President is which includes knowing whether he was born in the United States, if not, where he was born, and whether he is an Article II “natural born Citizen” which is a constitutional eligibility requirement to be President.

268. The non-Obama defendants have deprived the plaintiffs of this liberty interest without due process of law in not assuring and confirming through objective, credible, and sufficient evidence that Obama was born in the United States and that he is an Article II “natural born Citizen,” showings that are constitutionally required of Obama under that article to be eligible to hold the office of President.

269. Plaintiffs are now forced to live their lives feeling unsafe, insecure, and in fear for their peace, tranquility, and prosperity because the non-Obama defendants have deprived plaintiffs of the liberty interest to know whether Obama was born in the United States and whether he is an Article II “natural born Citizen.”

270. Because the non-Obama defendants have denied plaintiffs this liberty interest without due process of law, there is no other way for them now to protect this right other than by bringing this legal action against defendants so that the judicial branch of government may grant them the necessary relief.

#### COUNT V

##### (Fifth Amendment-Equal Protection v. Non-Obama Defendants)

**THE NON-OBAMA DEFENDANTS VIOLATED PLAINTIFFS’ FIFTH AMENDMENT RIGHTS BY DENYING THEM EQUAL PROTECTION OF THE LAWS IN REFUSING AND FAILING TO EXERCISE THEIR GENERAL INVESTIGATORY AND TWENTIETH AMENDMENT POWERS TO PROTECT PLAINTIFFS BY AFFORDING THEM AN OPPORTUNITY TO BE HEARD THROUGH THEIR ELECTED REPRESENTATIVES, AND BY REFUSING AND FAILING TO CONDUCT AN APPROPRIATE INVESTIGATION, LEGAL RESEARCH, AND PUBLIC HEARINGS ON WHETHER OBAMA IS AN ARTICLE II “NATURAL BORN CITIZEN” AND QUALIFIED TO BE PRESIDENT AND COMMANDER IN CHIEF OF THE UNITED STATES WHEN THEY DID PROVIDE SUCH PROTECTION TO OTHER SIMILARLY SITUATED CONCERNED CITIZENS WHO EXPRESSED THE SAME CONCERN REGARDING PRESIDENTIAL CANDIDATE JOHN MCCAIN’S ARTICLE II “NATURAL BORN CITIZENSHIP” STATUS AND QUALIFICATIONS TO BE PRESIDENT**

271. The allegations set forth in paragraphs 1- 270 are realleged herein.

272. The Fifth Amendment to the Constitution provides:

“No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due

process of law; nor shall private property be taken for public use, without just compensation.”

273. Given that the United States has a Constitutional Republic form of democratic self-government, plaintiffs have a fundamental interest in knowing whether Obama was born in the United States and whether he is an Article II “natural born Citizen.”

274. Defendants failed to conduct the appropriate investigations and hearings on whether Obama is an Article II “natural born Citizen” and qualifies for the Office of President as called for by the Twentieth Amendment,

275. The Congress of the U.S. has never passed a resolution declaring that Obama, the Democratic candidate for President, is an Article II “natural born citizen” of the U.S. similar to Senate Resolution 511 which the Senate passed in April, 2008, for John McCain, who was the Republican candidate for President in the same election.

276. The Congress exhibited an unconstitutional bias in how it utilized its Constitutional powers and authority of investigation on the question of Article II “natural born Citizenship” in favor of Obama and against McCain.

277. In February 2008, The New York Times published a report calling into question whether McCain was Article II qualified to run for president. <http://leahy.senate.gov/press/200804/041008c.html>. The Congress responded by ordering legal research on the matter and held Congressional hearings thereon.

278. In their effort to protect their fundamental interest in assuring that Obama was born in the United States and that he is an Article II “natural born Citizen,” plaintiffs and concerned citizens wrote Congress numerous grievance letters regarding Obama’s Article II citizenship status and some of these citizens even filed lawsuits against Obama

on the question of his Constitutional eligibility but Congress, having an unconstitutional bias in favor of Obama, did absolutely nothing to verify whether Obama was born in the United States and whether he is an Article II “natural born Citizen.’

279. There was far less hue and cry from the people about McCain’s citizenship status than about Obama’s, but Congress, mostly motivated by a sole The New York Times story, gave the people concerned about McCain’s status due process and heard their grievances by requesting legal research on his citizenship status by prestigious constitutional lawyers, conducting hearings, taking testimony, and passing a resolution stating that McCain was a “natural born Citizen” but did nothing for the plaintiffs and other concerned Americans concerning their petitions, grievances, and questions about Obama's citizenship status.

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

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

282. Without having any legitimate government purpose or objective for treating the plaintiffs differently than they treated other similarly situated concerned Americans, the non-Obama defendants violated plaintiffs’ equal protection rights under the Fifth Amendment by not protecting their fundamental interest in assuring that Obama is a United States citizen and an Article II “natural born Citizen” the same way they protected the same fundamental interest of similarly situated concerned Americans who petitioned the same defendants regarding Republican candidate McCain’s place of birth and Article II “natural born Citizenship” status.

**COUNT VI**  
**(Ninth Amendment-Rights Reserved v. Obama)**

**PLAINTIFFS HAVE THE CONSTITUTIONAL RIGHT UNDER THE NINTH AMENDMENT TO COMPEL OBAMA TO SATISFY HIS ARTICLE II CONSTITUTIONAL BURDEN OF PROVING THROUGH OBJECTIVE, CREDIBLE, AND SUFFICIENT PROOF THAT HE WAS BORN IN THE UNITED STATES AND THAT HE IS AN ARTICLE II, “NATURAL BORN CITIZEN” AS THAT TERM SHALL BE DEFINED BY THE JUDICIAL BRANCH OF GOVERNMENT**

283. The introductory allegations set forth in paragraphs 1- 282 are realleged herein.

284. The 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.”

285. This Amendment along with Article IV, Section 4 (Guarantee Clause that guarantees a Republican form of government) of the Constitution afford the plaintiffs with certain rights to challenge the constitutional qualifications and legitimacy of a sitting President and for a judicial remedy for violations of the Constitution by public officials and agents.

286. Neither the Electoral College nor Congress exercised their rights to investigate and determine whether Obama is an Article II “natural born Citizen.”

287. Members of Congress have stated to constituents that Congress does not have any right to investigate and determine whether a President Elect is an Article II “natural born Citizen.”

288. In fact, many members of Congress informed their constituents that since the courts had dismissed all pending law suits against Obama and other various

defendants challenging Obama's Article II "natural born Citizenship" status, there was nothing that Congress could do.

289. No state of the United States also exercised any right to challenge Obama's Article II "natural born Citizenship" status.

290. Because neither any State nor Congress exercised any such right or because neither any State nor Congress has any such right, Obama is now occupying the Office of President while not being Article II qualified to do so.

291. If the right to challenge Obama's Article II "natural born Citizenship" status does not rest with any State or Congress, then it rests with the plaintiffs who are among the people of the United States.

292. Plaintiffs, by filing this action against defendant Obama, are exercising their rights under the Ninth Amendment to require defendant Obama to provide objective, credible, and sufficient proof that he is an Article II, "natural born Citizen" as that term shall be defined by this court or some other court of competent jurisdiction.

293. Defendant Obama is therefore constitutionally duty bound and compelled to meet his burden of proving through objective, credible, and sufficient proof that he is an Article II, "natural born Citizen" as that term shall be defined by this court or some other court of competent jurisdiction.

## **COUNT VII**

### **(Ninth Amendment-Rights Reserved v. Non-Obama Defendant)**

**PLAINTIFFS HAVE THE CONSTITUTIONAL RIGHT UNDER THE NINTH AMENDMENT TO COMPEL THE NON-OBAMA DEFENDANTS TO CONDUCT APPROPRIATE CONGRESSIONAL HEARINGS UNDER THE TWENTIETH AMENDMENT TO DETERMINE IF OBAMA IS ARTICLE II QUALIFIED TO BE PRESIDENT UNDER THE STANDARD TO BE ESTABLISHED BY THE COURT AND IF HE DOES NOT SO QUALIFY TO**

**REMOVE HIM FROM THE OFFICE OF PRESIDENT AND REPLACE HIM PURSUANT TO APPLICABLE CONSTITUTIONAL PROVISIONS**

294. The introductory allegations set forth in paragraphs 1- 293 are realleged herein.

295. The 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.”

296. This Amendment along with Article IV, Section 4 (Guarantee Clause that guarantees a Republican form of government) of the Constitution afford the plaintiffs with certain rights to challenge the constitutional qualifications and legitimacy of a sitting President and for a judicial remedy for violations of the Constitution by public officials and agents.

297. Neither the Electoral College nor Congress exercised their rights to investigate and determine whether Obama is an Article II “natural born Citizen.”

298. Members of Congress have stated to constituents that Congress does not have any right to investigate and determine whether a President Elect is an Article II “natural born Citizen.”

299. In fact, many members of Congress informed their constituents that since the courts had dismissed all pending law suits against Obama and other various defendants challenging Obama’s Article II “natural born Citizenship” status, there was nothing that Congress could do.

300. No state of the United States also exercised any right to challenge Obama’s Article II “natural born Citizenship” status.

301. Because neither any State nor Congress exercised any such right or because neither any State nor Congress has any such right, Obama is now occupying the Office of President while not being Article II qualified to do so.

302. If the right to challenge Obama's Article II "natural born Citizenship" status does not rest with any State or Congress, then it rests with the plaintiffs who are among the people of the United States.

303. Plaintiffs, by filing this action against the non-Obama defendants are exercising their rights under the Ninth Amendment to require defendant Obama to provide objective, credible, and sufficient proof that he is an Article II, "natural born Citizen" as that term shall be defined by the Court and to compel the non-Obama defendants to conduct appropriate Congressional hearings under the Twentieth Amendment to determine if Obama is Article II qualified to be President under the standard to be established by the Court and if he does not so qualify to remove him from the Office of President and replace him pursuant to applicable constitutional provisions.

304. The non-Obama defendants are therefore constitutionally duty bound and compelled to conduct appropriate Congressional hearings under the Twentieth Amendment to determine if Obama has met his burden of proving through objective, credible, and sufficient proof that he was born in the United States and that he is an Article II, "natural born Citizen" as that term shall be defined by the Court.

305. If the non-Obama defendants after conducting the appropriate Congressional hearings determine that Obama is not an Article II "natural born Citizen" as that term will be defined by a Court, then they are to remove Obama from the Office of President and replace him pursuant to applicable constitutional provisions.

**COUNT VIII**  
**(Tenth Amendment-Power reserved v. Obama)**

**PLAINTIFFS HAVE THE CONSTITUTIONAL RIGHT UNDER THE TENTH AMENDMENT TO COMPEL OBAMA TO SATISFY HIS ARTICLE II CONSTITUTIONAL BURDEN OF PROVING THROUGH OBJECTIVE, CREDIBLE, AND SUFFICIENT PROOF THAT HE WAS BORN IN THE UNITED STATES AND THAT HE IS AN ARTICLE II, “NATURAL BORN CITIZEN” AS THAT TERM SHALL BE DEFINED BY THE JUDICIAL BRANCH OF GOVERNMENT**

306. The introductory allegations set forth in paragraphs 1- 305 are realleged herein.

307. The Tenth Amendment to the Constitution provides that “[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

308. This Amendment along with Article IV, Section 4 (Guarantee Clause that guarantees a Republican form of government) of the Constitution affords the plaintiffs with certain rights and powers to challenge the Constitutional qualifications and legitimacy of a sitting President and for a judicial remedy for violations of the Constitution by public officials and agents.

309. Neither the Electoral College nor Congress exercised their power to investigate and determine whether Obama is an Article II “natural born Citizen.”

310. Members of Congress have stated to constituents that Congress does not have the power to investigate and determine whether a President Elect is an Article II “natural born Citizen.”

311. In fact, many members of Congress informed their constituents that since the courts had dismissed all pending law suits against Obama and other various

defendants challenging Obama's Article II "natural born Citizenship" status, there was nothing that Congress could do.

312. No state of the United States also exercised any power to challenge Obama's Article II "natural born Citizenship" status.

313. Because neither any State nor Congress exercised that power or because neither any State nor Congress has that power, Obama is now occupying the Office of President while not being Article II qualified to do so.

314. If the power to challenge Obama's Article II "natural born Citizenship" status does not rest with any State or Congress, then it rests with the plaintiffs who are among the people of the United States.

315. Plaintiffs, by filing this action against defendant Obama, are exercising their power under the Tenth Amendment and the Guarantee Clause of Article IV to require defendant Obama to provide objective, credible, and sufficient proof that he is an Article II, "natural born Citizen" as that term shall be defined by this court or some other court of competent jurisdiction.

316. Defendant Obama is therefore constitutionally duty bound and compelled to meet his burden of proving through objective, credible, and sufficient proof that he is an Article II, "natural born Citizen" as that term shall be defined by this court or some other court of competent jurisdiction.

#### **COUNT IX**

#### **(Tenth Amendment-Rights Reserved v. Non-Obama Defendant)**

**PLAINTIFFS HAVE THE CONSTITUTIONAL RIGHT UNDER THE TENTH AMENDMENT TO COMPEL THE NON-OBAMA DEFENDANTS TO CONDUCT APPROPRIATE CONGRESSIONAL HEARINGS UNDER THE TWENTIETH AMENDMENT TO DETERMINE IF OBAMA IS ARTICLE II QUALIFIED TO BE PRESIDENT UNDER THE STANDARD TO BE**

**ESTABLISHED BY A COURT AND IF HE DOES NOT SO QUALIFY TO REMOVE HIM FROM OFFICE AND REPLACE HIM PURSUANT TO APPLICABLE CONSTITUTIONAL PROVISIONS**

317. The introductory allegations set forth in paragraphs 1- 316 are realleged herein.

318. The Tenth Amendment to the Constitution provides that “[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

319. This Amendment along with Article IV, Section 4 (Guarantee Clause that guarantees a Republican form of government) of the Constitution affords the plaintiffs with certain rights and powers to challenge the Constitutional qualifications and legitimacy of a sitting President and for a judicial remedy for violations of the Constitution by public officials and agents.

320. Neither the Electoral College nor Congress exercised their rights to investigate and determine whether Obama is an Article II “natural born Citizen.”

321. Members of Congress have stated to constituents that Congress does not have any right to investigate and determine whether a President Elect is an Article II “natural born Citizen.”

322. In fact, many members of Congress informed their constituents that since the courts had dismissed all pending law suits against Obama and other various defendants challenging Obama’s Article II “natural born Citizenship” status, there was nothing that Congress could do.

323. No state of the United States also exercised any right to challenge Obama’s Article II “natural born Citizenship” status.

324. Because neither any State nor Congress exercised any such right or because neither any State nor Congress has any such right, Obama is now occupying the Office of President while not being Article II qualified to do so.

325. If the right to challenge Obama's Article II "natural born Citizenship" status does not rest with any State or Congress, then it rests with the plaintiffs who are among the people of the United States.

326. Plaintiffs, by filing this action against the non-Obama defendants are exercising their rights under the Tenth Amendment to require defendant Obama to provide objective, credible, and sufficient proof that he is an Article II, "natural born Citizen" as that term shall be defined by the Court and to compel the non-Obama defendants to conduct appropriate Congressional hearings under the Twentieth Amendment to determine if Obama is Article II qualified to be President under the standard to be established by the Court and if he does not so qualify to remove him from the Office of President and replace him pursuant to applicable constitutional provisions.

327. The non-Obama defendants are therefore constitutionally duty bound and compelled to conduct appropriate Congressional hearings under the Twentieth Amendment to determine if Obama has met his burden of proving through objective, credible, and sufficient proof that he was born in the United States and that he is an Article II, "natural born Citizen" as that term shall be defined by the Court.

328. If the non-Obama defendants after conducting the appropriate Congressional hearings determine that Obama is not an Article II "natural born Citizen" as that term will be defined by a Court, then they are to remove Obama from the Office of President and replace him pursuant to applicable constitutional provisions.

**COUNT X**  
**(Twentieth Amendment-Congress to Qualify President Elect v. Non-Obama Defendants)**

**GIVEN PLAINTIFFS' AND OTHER CONCERNED AMERICANS' PETITIONS TO THE NON-OBAMA 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, THE NON-OBAMA 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**

329. The introductory allegations set forth in paragraphs 1- 328 are realleged herein.

330. The 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."

331. The Tenth Amendment to the Constitution provides that "[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

332. These two Amendments afford the plaintiffs with the right and power to bring a legal action against defendant Obama challenging his Constitutional qualifications and legitimacy to be President and to bring a legal action against the other non-Obama defendants for their failure to exercise their constitutional duties under the Twentieth Amendment to properly qualify and confirm Obama by first assuring that he is an Article II "natural born Citizen" and for a judicial remedy for Obama's failure to qualify for such Office and for all their violations of the Constitution.

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

334. 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 . . .”

335. There existed significant public doubt and grievances from plaintiffs and other concerned Americans regarding Obama’s eligibility to be President and the non-Obama defendants had the sworn duty to support and defend the Constitution and specifically under the Twentieth Amendment, Section 3, a Constitutional obligation to conclusively verify whether Obama, once the Electors elected him, was qualified under Article II, Section 1, Clause 5 of the Constitution.

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

337. Defendants had the duty under the First, Fifth, Ninth, Tenth, and Twentieth Amendments to 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.

338. 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.

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

340. On January 8, 2009, Congress in Joint Session certified, ratified, and/or

confirmed Obama as the next President of the United States.

341. 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.

342. 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.

343. 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 verify and confirm under the Twentieth Amendment 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 to compel witnesses' attendance.

344. There was far less objections from the people about McCain's citizenship status than about Obama's, but Congress gave to those objectors due process and heard their grievances by requesting legal research on his citizenship status by prestigious constitutional lawyers, conducting hearings, and passing a resolution stating that McCain was a "natural born Citizen," but did nothing for the plaintiffs and other concerned Americans concerning their petitions, grievances, and questions about Obama's citizenship status.

345. 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 certifying, ratifying, and/or 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.

346. Defendants did not do their due diligence under the Twentieth Amendment in protecting the Constitution and the plaintiffs and the people before certifying, ratifying, and/or confirming Obama to be President before the Joint Session of Congress on January 8, 2009.

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

348. Members of Congress had a right to submit to the Senate and to the House a written objection to the vote count or they could have even stood and said "point of order" and objected to the counting of the vote and certification, ratification and/or confirmation of Obama's election on the Article II eligibility ground until such time that he can conclusively prove that he is Article II qualified to serve as President of the United States and Commander in Chief of our military.

349. Members of Congress could have stood up and said "point of order," and objected and demanded a full investigation of Obama's citizenship status.

350. Pursuant to 3 U.S.C Sec. 15, Cheney was required to openly call for objections to each state's vote after each state's vote was read but he failed to satisfy that minimum requirement.

351. Hence, defendant Cheney did not give the members of the Senate and House an opportunity to voice objections to each and every state's vote.

352. Because defendant Cheney failed to call for objections as is required by the U.S. Code, the certification of the Electoral College votes was illegally obtained.

353. So not only did the Joint Congress fail under the Twentieth Amendment 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 defendant Cheney also did not give each member an opportunity to object to any of the votes cast, a violation by him of 3 U.S.C. Sec. 15.

354. On January 8, 2009, Congress committed an unconstitutional act of certifying, ratifying, and/or confirming Obama, an ineligible person for President and Commander in Chief under Article II, by violating the Twentieth Amendment, as enforced by the Ninth and Tenth Amendments.

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

356. Since Congress has acted unconstitutionally under the Twentieth Amendment and contrary to 3 USC Sec. 15, 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. ENDNOTE 42.

**COUNT XI**  
**(Quo Warranto v. Obama)**

**BECAUSE OBAMA IS NOT AN ARTICLE II “NATURAL BORN CITIZEN,” THE COURT SHOULD REMOVE AND EXCLUDE HIM FROM THE OFFICE OF PRESIDENT WHICH HE PRESENTLY HOLDS AND PERMANENTLY BAR HIM FROM HOLDING THAT OFFICE**

357. The allegations set forth in paragraphs 1-356 are realleged herein.

358. Under Article II, Section 4 of the Constitution, the President is bound by the laws of the land and can be removed from office for treason, bribery or other high crimes and misdemeanors.

359. Article II, Section 1, Clause 6 provides that in case the President is removed from office because of disqualification, his powers and duties shall devolve upon the Vice President.

360. The 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.”

361. The Tenth Amendment to the Constitution provides that “[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

362. These two Amendments along with Article IV, Section 4 (Guarantee Clause that guarantees a Republican form of government) of the Constitution afford the plaintiffs the right and power to bring a legal action against defendant Obama challenging his Constitutional qualifications and legitimacy to be President and for a judicial remedy for Obama’s failure to qualify for such Office.

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

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

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

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

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

368. Obama now actually occupies the Office of President and is exercising all the powers given to that Office under the Constitution.

369. Plaintiffs and other concerned Americans have through their petitions to Congress asked that Congress fully investigate and resolve the issue of whether defendant Obama is an Article II “natural born Citizen” but Congress has refused their pleas.

370. Plaintiffs’ action against defendant Obama is now ripe for determination by a court, for plaintiffs have exhausted all other remedies at resolving the question of whether Obama is an Article II “natural born Citizen” through the political process.

371. 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.

372. Because Obama is not eligible to be the President of the United States, any agreements he makes are subject to repudiation by the current American government or by future administrations.

373. Any and all agreements he makes gives foreign powers the excuse to repudiate them.

374. Any orders he gives to the American military are subject to being constitutionally and lawfully refused.

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

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

377. Plaintiffs have the right to be represented in Office of President by a person who is constitutionally qualified to hold that position.

378. Plaintiffs' liberty interest to know whether Obama was born in the United States and whether he is an Article II "natural born Citizen" has been denied and their personal health, welfare, and safety are at risk by having an individual hold the Office of President and Commander in Chief who is not an Article II "natural born Citizen," for the President has great enumerated and inherent powers under Article II of the Constitution including but not limited to the power over the armed forces, over the Executive Branch, to execute the instructions of Congress, to make treatise, and to appoint judges to the Supreme Court and all other officers of the United States.

379. Plaintiffs do not have another ample and sufficient remedy provided by law for the relief they seek.

380. By judicial determination, Obama should be removed and excluded from the Office of President which he presently holds and be permanently barred from holding that office.

**COUNT XII**  
**(Declaratory Action v. All Defendants)**

**THE COURT SHOULD DECLARE THE RIGHTS OF THE PLAINTIFFS AND THE DEFENDANTS IN CONNECTION WITH THE QUESTION OF WHETHER OBAMA IS AN ARTICLE II “NATURAL BORN CITIZEN” AND WHETHER THE NON-OBAMA DEFENDANTS ARE TO BE COMPELLED TO HOLD CONGRESSIONAL HEARING ON THE QUESTION OF WHETHER OBAMA IS AN ARTICLE II “NATURAL BORN CITIZEN” AS THAT TERM WILL BE DEFINED BY THE COURT AND IF THEY DETERMINE THAT HE IS NOT THAT THEY EXERCISE THEIR POWERS UNDER THE CONSTITUTION TO REMOVE HIM FROM THE OFFICE OF PRESIDENT AND REPLACE HIM**

381. The allegations set forth in paragraphs 1- 380 are realleged herein.

382. This action is brought under the provisions of 28 U.S. C. Sec. 2201(a).

ENDNOTE 43.

383. There exists an actual case or controversy under Article III, Section 2, Clause 1 of the United States Constitution between plaintiffs and defendants which is ripe and which the Court needs to resolve.

384. As alleged above, there exists an actual dispute and controversy between plaintiffs and defendants regarding whether the non-Obama defendants violated plaintiffs’ right under the First Amendment to have their petitions and grievances address by them, whether the non-Obama defendants violated plaintiffs’ procedural due process rights under the Fifth Amendment, whether the non-Obama defendants violated plaintiffs’ substantive due process and equal protection under the Fifth Amendment, whether the non-Obama defendants violated plaintiffs’ rights under the Twentieth Amendment as enforced against them by the Ninth and Tenth Amendment, whether defendant Obama is an Article II “natural born Citizen,” whether Obama should be

compelled to produce sufficient and credible documents which would conclusively prove whether he is an Article II “natural born Citizen,” whether defendant Obama currently holds the Office of President legitimately under Article II, and whether defendant Obama should be forever barred from holding that Office.

385. This Court is an appropriate court to hear and determine the matters in controversy.

386. By reason of the conflicting claims of the parties, an actual justiciable controversy exists between the parties which is ripe for judicial interpretation and capable of being resolved by the Court.

387. Plaintiffs need a declaration of the rights, duties, or obligations of each of the defendants by this Court.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays for relief and judgment as follows:

Re: Defendant 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” of the United States.

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 that defendant Barack Hussein Obama II prove by objective, competent, and sufficient evidence that he was born in the United States of America.

9. Order that defendant Barack Hussein Obama II (or any other name that he may have ever used including but not limited to Barry Soetoro) turn over: (a) a certified copy of Obama’s “vault” (original long version) birth certificate otherwise known as the **Certificate** of Live Birth (BC) and any and all other documents which would objectively, credibly, and sufficiently show where he was born; (b) certified copies of all reissued and sealed birth certificates of Obama in the name of Barry Soetoro or any other name that he may have ever used; (c) a certified copy of Obama’s Certification of Citizenship; (d) a certified copy of Obama’s Oath of Allegiance taken upon age of majority; (e) certified

copies of Obama's admission forms for Occidental College, Columbia University and Harvard Law School; and (f) certified copies of any court orders or legal documents changing Obama's name from Barry Soetoro to Barack Hussein Obama; (g) certified copies of any court orders or similar documents in the U.S. or Indonesia evidencing the fact that Lolo Soetoro adopted and/or acknowledged Barack Hussein Obama II (or whatever name Obama may have been using); and (h) certified copies of any and all records or documents in any form including but not limited to birth, medical, religious rites, immigration, and travel documents kept anywhere in Kenya or anywhere under the control of the Kenyan government or the United States embassy/consulate.

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

11. Declare that plaintiffs have the right under the Ninth Amendment to challenge Obama's Article II eligibility to hold the Office of President.

12. Declare that plaintiffs have the power under the Tenth Amendment to challenge Obama's Article II eligibility to hold the Office of President.

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

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

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

16. Order that plaintiffs are entitled to a remedy in the nature of quo warranto compelling defendant Obama to demonstrate by what lawful authority, if any, he claims to legitimately occupy the Office of President under Article II of the Constitution and to execute the powers of that Office.

Re: Non-Obama Defendants:

17. Declare that defendants violated plaintiffs' First Amendment right to have their government address their grievances.

18. Declare that defendants violated plaintiffs' Fifth Amendment procedural due process rights.

19. Declare that defendants violated plaintiffs' Fifth Amendment due process and equal protection rights.

20. Declare that plaintiffs have the right under the Ninth Amendment to compel the non-Obama defendants to conduct appropriate congressional hearings under the Twentieth Amendment to determine if Obama is Article II qualified to be President under the standard to be established by the Court and if he does not so qualify to remove him from office and replace him pursuant to applicable constitutional provisions.

21. Declare that plaintiffs have the right under the Tenth Amendment to compel the non-Obama defendants to conduct appropriate congressional hearings under the Twentieth Amendment to determine if Obama is Article II qualified to be President

under the standard to be established by the Court and if he does not so qualify to remove him from office and replace him pursuant to applicable constitutional provisions.

22. Declare that defendants violated plaintiffs' rights under the Twentieth Amendment.

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

24. 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.

25. 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.

26. 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.

27. 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.

28. 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 20<sup>th</sup> Amendment and/or other applicable Constitutional provisions.

29. Enter judgment against the individual defendants and in favor of plaintiffs for compensatory damages plus the costs of this action, reasonable attorney fees, interest, and such other relief as the Court deems just and equitable.

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

Respectfully submitted,

*/s/ Maria Apuzzo*

Dated: February 9, 2009

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## 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 by taking both oaths 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, respectively, 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." 10 U.S.C. Sec. 502, Enlistment Oath. This or similar wording was first adopted in 1789.

"I, \_\_\_\_\_, 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." 5 U.S.C. Sec. 3331, Oath of Office.

3. 10 USC 12301(a); 10 USC 12302; 10 USC 12304

4. Thomas Jefferson: Declaration of Independence, 1776.

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

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

7. Thomas Jefferson: Declaration of Independence, 1776.

8. In England, the Magna Carta (1215) was a prime example of the "rule of law." The Great Charter forced King John of England to submit his will to the law. Thomas Paine stated in his pamphlet Common Sense (1776): "For as in absolute governments the king is law, so in free countries the law ought to be king; and there ought to be no other." In describing his view of what the government of the Commonwealth of Massachusetts should be, John Adams said "to the end it may be a government of laws and not of men." Massachusetts Constitution, Part The First, art. XXX (1780). These early influences are some examples that lead to the rule of constitutional law in the United States.

9. One reason to doubt the online posted **Certification** of Live Birth's (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. Additionally, even the United States Supreme Court warns that electronic orders may contain "computer-generated errors or other deviations from the official printed versions." Indeed, the Court does not trust computer-generated documents and requires a follow up of them with its paginated versions in paper print. Furthermore, in cases of discrepancies between the print and electronic versions of orders, the print version controls.

<http://www.supremecourtus.gov/orders/08ordersofthecourt.html>

Surely, the plaintiffs are therefore justified in demanding that defendant Obama, the sitting President of the United States, produce for public inspection and examination by expert document examiners the paper version of his original **Certificate** of Live Birth (Birth Certificate) rather than a questionable digital computer image of a document **Certification** of Live Birth (COLB) that he and/or his campaign have/has published to the world and upon which he relies to prove that he is an Article II "natural born Citizen."

10. In the case of Hollister v. Soetoro, Civil Action No. 1:08-cv-02254-JR, pending in the United States District Court for the District of Columbia, defendants Obama and Vice President Joseph Biden have filed a motion to dismiss the complaint. In footnote No. 1 of their moving brief dated January 26, 2009, they have stated the following:

"1 President Obama has publicly produced a certified copy of a birth certificate showing that he was born on August 4, 1961, in Honolulu Hawaii. See, e.g., Factcheck.org, "Born in the U.S.A.: The truth about Obama's birth certificate," available at [http://www.factcheck.org/elections-2008/born\\_in\\_the\\_usa.html](http://www.factcheck.org/elections-2008/born_in_the_usa.html) (concluding that the birth certificate is genuine, and noting a contemporaneous birth announcement published in a Honolulu newspaper). Hawaii officials have publicly verified that they have President Obama's "original birth certificate on record in accordance with state policies and procedures." See "Certified," Honolulu Star Bulletin, Oct. 31, 2008. This Court can take judicial notice of these public news reports. See The Washington Post v. Robinson, 935 F.2d 282, 291 (D.C. Cir. 1991); Agee v. Muskie, 629 F.2d 80, 81 n.1, 90 (D.C. Cir. 1980)

11. In this complaint whenever we use the term Birth Certificate or BC in reference to Hawaiian birth record documents, we are referring to the Hawaiian state document **Certificate** of Live Birth and whenever we refer to COLB we are referring to the Hawaiian state document **Certification** of Live Birth.

12. 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. [http://www.capitol.hawaii.gov/hrscurrent/Vol06\\_Ch0321-0344/HRS0338/](http://www.capitol.hawaii.gov/hrscurrent/Vol06_Ch0321-0344/HRS0338/). 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 **Certification** of Live Birth (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 **Certification** of Live Birth (COLB) regarding where he was born. Hence, the prima facie validity of the **Certification** of Live Birth (COLB) must fail and Obama should be compelled to produce other objective, credible, and sufficient evidence of where he was born.

13. British Nationality Act of 1948.

14. The origins of the term "natural born Citizen" and inclusion in the Constitution can be traced to a 1787 letter from John Jay to General George Washington. The letter 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.

15. A child born in wedlock and abroad to one U.S. citizen parent and one alien parent acquires U.S. citizenship at birth under Section 301(g) INA, provided the citizen parent was physically present in the U.S. for the time period required by the law applicable at the time of the child's birth. (For birth on or after November 14, 1986, a period of five years physical presence, two after the age of fourteen is required. For birth between December 24, 1952 and November 13, 1986, a period of ten years, five after the age of fourteen are required for physical presence in the U.S. to transmit U.S. citizenship to the child). [http://travel.state.gov/law/info/info\\_609.html](http://travel.state.gov/law/info/info_609.html). Obama's mother, born on November 29, 1942, was 18 years old when she gave birth to Obama on August 4, 1961. She was 117 days short from being 19 years old. But she had to be at least 19 years old (14 years old plus 5 years of U.S. physical presence) to satisfy the legal requirement of Section 301(g). Hence, if Obama was born in Kenya, under the Fourteenth Amendment, he is neither a U.S. citizen by birth on U.S. soil nor one by naturalization. (There is no existing evidence that Obama was ever naturalized.) Nor would he qualify to be a U.S. citizen by any act of Congress by being born abroad to a U.S. citizen parent. If this scenario were proven to be true, it can be reasonably argued that Obama is an illegal alien.

16. While Obama did swear under oath to at least one state (e.g. Arizona) that he is a "natural born citizen," virtually all DNC nominating certificates do not say Obama is constitutionally qualified to be President. Rather, they only say that Obama has been nominated as the Democratic candidate for the Office of President. The only exception that has been found to date is for the state of Hawaii, which nominating certificate does say that the candidate is constitutionally qualified to be President. A copy of the signed document for HI may be found at: <http://www.yourfellowcitizen.com/2008/12/hawaii-answers-two-of-my-questions.html>. But defendant Pelosi never adequately qualified Obama, for she never saw his original vault, long form, **Certificate** of Live Birth (Birth Certificate), (not to be confused with the internet image of a **Certification** of Live Birth (COLB) that Obama's campaign posted on the internet in June 2008 and which has been attacked by at least two document examiners as a forgery), or any other sufficient and credible document that would lead her to come to such a conclusion.

17. 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 **Certificate** of

Live Birth (Birth Certificate), Harvard Law Review articles that were published, University of Chicago scholarly articles, Record of baptism, if any.

18. 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.

19. Information and the “pre-established, objective” criteria of the Commission on Presidential Debates may be found at <http://www.yourfellowcitizen.com/2009/01/big-tip-commission-on-presidential.html>.

20. <http://www.wnd.com/index.php?fa=PAGE.view&pageId=83152>. 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.

21. 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 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 conclusively 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>.

See, e.g., Wrotnowski v. Bysiewicz, 958 A.2d 709, 713 (Conn. 2008) (dismissing case regarding Obama for lack of statutory standing and subject matter jurisdiction); Stamper v. United States, 2008 WL 4838073, at \*2 (N.D. Ohio Nov. 4, 2008) (dismissing suit regarding Obama and McCain for lack of jurisdiction); Roy v. Federal Election, 2008 WL 4921263, at \*1 (W.D. Wash. Nov. 14, 2008) (dismissing suit regarding Obama and McCain for failure to state a claim); Marquis v. Reed, Superior Court Case No. 08-2-34955 SEA (Wash. 2008) (dismissing suit regarding Obama); Hollander v. McCain, 566 F. Supp. 2d 63, 71 (D.N.H. 2008) (dismissing suit regarding McCain on standing grounds); In re John McCain’s Ineligibility to be on Presidential Primary Ballot in PA., 944 A.2d 75 (Pa. 2008); Lightfoot v. Bowen, Supreme Court Case No. S168690 (Cal. 2008) (Original Proceeding) (denying Petition for Writ of Mandate/Prohibition and Stay regarding Obama); Robinson v. Bowen, 567 F. Supp. 2d, 1144, 1147 (N.D. Cal. 2008) (dismissing suit regarding McCain for lack of standing and lack of a state court remedy); Constitution Party v. Lingle, 2008 WL 5125984, at \*1 (Haw. Dec. 5, 2008) (unpublished) (dismissing election contest challenging Obama’s Nov. 4, 2008 victory);

Martin v. Lingle, Supreme Court Case No. 08-1- 2147 (Haw. 2008) (Original Proceeding) (rejecting original writ petition regarding Obama on several grounds); Cohen v. Obama, 2008 WL 5191864, at \*1 (D.D.C. Dec. 11, 2008) (dismissing suit regarding Obama on standing grounds); Donofrio v. Wells, Motion No. AM-0153-08T2 before the New Jersey Appellate Division (N.J. 2008).

22. The U.S. Supreme court previously discussed four cases in conference and denied Leo Donofrio, Cort Wrotnowski, Philip Berg, and Lightfoot et al v. Debra Bowen, California Secretary of State, full hearings. Those lawsuits allege Obama does not meet the "natural born citizen" clause of the U.S. Constitution, Article II, Section 1.

23. At a Judiciary Committee hearing on April 3, Senator Leahy asked Homeland Security Secretary Michael Chertoff, himself a former Federal judge, if he had doubts that McCain was eligible to serve as President. "My assumption and my understanding is that if you are born of American parents, you are naturally a natural-born American citizen," Chertoff replied. "That is mine, too," said Leahy. <http://leahy.senate.gov/press/200804/041008c.html>. With defendant Obama (who also signed it) and Senator Hilary Clinton being two of the six sponsors of the resolution, the Senate passed Senate Resolution 511 on April 30, 2008. Congress requested legal research on the issue of whether McCain's was an Article II "natural born Citizen" and Theodore Olson (former Solicitor General) and Laurence Tribe (Harvard Law School Professor) wrote their legal opinion to Congress concluding that he was. The Senate expressed that it relied on that legal opinion to come to its conclusion that McCain is a "natural born Citizen" and Senator Leahy requested that the legal opinion be printed in the Congressional Record.

24. The Constitution requires that Senators and Representatives take an oath to support and defend 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.

25. Joint Session of Congress requires a concurrent resolution from both House and Senate to meet. Joint sessions include the counting of electoral college votes and certifying, ratifying, and/or confirming the election of the President.

26. Although not specifically mentioned in the Constitution, Congress has long asserted the power to investigate and the power to compel cooperation with an investigation. Barenblatt v. United States, 360 U.S. 109, 111 (1959) ("The power of inquiry has been employed by Congress throughout our history, over the whole range of the national interests concerning which Congress might legislate or decide upon due investigation not to legislate). The Supreme Court has affirmed these powers as an implication of Congress' power to legislate. See McGrain v. Daugherty, 273 U.S. 135, 174–75 (1927) ("[T]he power of inquiry-with process to enforce it-is an essential and appropriate auxiliary to the legislative function. It was so regarded and employed in American Legislatures before the Constitution was framed and ratified. . . . A legislative body cannot legislate wisely or effectively in the absence of information respecting the conditions which the legislation is intended to affect or change; and where the legislative body does not itself possess the requisite information-which not infrequently is true-recourse must be had to others who do possess it. Experience has taught that mere requests for such information often are unavailing, and also that information which is volunteered is not always accurate or complete; so some means of compulsion are essential to obtain what is needed. All this was true before and when the Constitution was framed and adopted. In that period the power of inquiry, with enforcing process, was regarded and employed as a necessary and appropriate attribute of the power to legislate-indeed, was treated as inhering in it. Thus there is ample warrant for thinking . . . that the constitutional provisions which commit the legislative function to the two houses are intended to include this attribute to the end that the function may be effectively exercised."). Since the power to investigate is part and parcel of Congress' power to legislate, it is as broad as Congress' powers to legislate. See Watkins v. United States, 354 U.S. 178, 187 (1957) ("The power of the Congress to conduct investigations is inherent in the legislative process. That power is broad. It encompasses inquiries concerning the administration of existing laws as well as proposed or possibly needed statutes. It includes surveys of defects in our social, economic or political system for the purpose of enabling the Congress to remedy them. It comprehends probes into departments of the Federal Government to expose corruption, inefficiency or waste."); Barenblatt, 360 U.S. at 111 ("The scope of the power of inquiry . . . is as penetrating and far-reaching as the potential power to enact and appropriate under the Constitution."). The courts highly defer to Congress' exercise of its investigation powers. Additionally, the courts will not inquire into whether Congress has an improper motive for an investigation (i.e., using a legitimate legislative purpose as a cover for "expos[ing] for the sake of exposure"), focusing only on whether the matter is within Congress' power to regulate and, thus, investigate. Barenblatt, 360 U.S. at 132 ("So long as Congress acts in pursuance of its constitutional power, the Judiciary lacks authority to intervene on the basis of the motives which spurred the exercise of that power."). Persons called before a congressional investigatory committee are entitled to the constitutional guarantees of individual rights, such as those in the Bill of Rights. Id. at 112. Congress can utilize its contempt powers to punish those who do not cooperate with an investigation. McGrain, 273 U.S. at 180.

27. 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 certifying, ratifying, and/or 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>.

Groups such as Frustrated Veterans of America placed a full-page ad in the Washington Times National Weekly, January 5, 2009, page 21, protesting that their First Amendment rights to petition and address their grievances with the government were denied. They reported in the ad that they received responses from four Congressmen that Congress did not have the authority to question Presidential candidates about their qualifications and that such prerogative belongs with the voters.

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 certified, ratified, and/or 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 certification, ratification, and/or 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 (COLB) 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.

28. 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.

29. That the courts were suppose to resolve the qualification issue placed these concerned Americans in a Catch 22, for Obama in his defense of the various lawsuits against him argued that the qualification issue was a political question that had to be decided by the political process and the courts probably agreed. That the Hawaiian officials had verified or confirmed that Obama was born in Hawaii was a false statement, for at no time did any such official state publicly that they personally saw Obama's original **Certificate** of Live Birth (Birth Certificate) and report that it shows that he was in fact born in Hawaii. Finally, stating that Congress has no power to investigate a Presidential candidate's or President Elect's eligibility to be President was also false, for Congress has the power to investigate anything and everything and the constitutional duty under the Twentieth Amendment to make sure that the President Elect qualifies for the Office.

30. 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.

31. Obama has also been known as Barry Soetoro and may have used other names as well.

32. It has been reported in the press that Obama's passport records were tampered with by a contract employee working for a company owned by an Obama campaign staffer.

33. See 3 U.S.C. Sec. 15.

34. 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.

35. 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."

36. 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.

37. The actual radio exchange between Robert Siegel and Scott Horsley can be heard at [\\Secretary\legalfiles\Political\Obama\Oath Obama retakes oath 1-21-09.htm](http://www.npr.org/secretary/legalfiles/Political/Obama/Oath%20Obama%20retakes%20oath%201-21-09.htm).

38. 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. Except for Military Judge Pohl, military judges have granted the request. [\\Secretary\legalfiles\Political\Obama\Military](http://www.npr.org/secretary/legalfiles/Political/Obama/Military)

Military Judge James Pohl has refused the Obama admin 1-29-09.htm. 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>

39. “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).

40. Congress's total indifference to the grievances of the plaintiffs had the same force of law as when in the time of the people of the original thirteen colonies, citizens thereof petitioned King George of Great Britain with their grievances and he was indifferent and totally ignored their grievances and petitions as is detailed in the Declaration of Independence. And now today, like King George did when he governed the original colonies, the Congress was indifferent to the plaintiffs and abridged their rights to have their grievances heard. Now plaintiffs’ only recourse for redress of their grievances is the Federal Courts.

41. 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."

42. Congress undertaking such an investigation is consistent with the decision in Robinson v. Bowen, 2008 U.S. Dist. LEXIS 82306 (N.D. Ca. 2008), where the District Court stated at 7: “Therefore, this order holds that the challenge presented by plaintiff is committed under the Constitution to the electors and the legislative branch...review--if any--should occur only after the electoral and Congressional processes have run their course. Texas v. United States, 523 U.S. 296, 300-02, 118 S. Ct. 1257, 140 L. Ed. 2d 406 (1998).” Robinson v. Bowen, at 7.

43. 28 U.S.C. Sec. 2201(a) provides: Declaratory judgments:

(a) In a case of actual controversy within its jurisdiction . . . any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.

**VERIFICATION**

I, **Charles F. Kerchner, Jr.**, being of full age, upon my oath do depose and say:

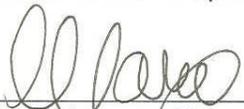
1. I am the one of the plaintiffs in the above-captioned matter and familiar with the facts herein.

2. I have read the allegations and statements in the accompanying complaint and they are true to the best of my knowledge, information and belief.

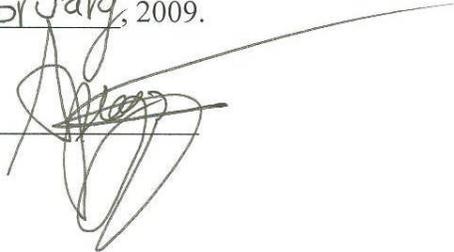


Charles F. Kerchner, Jr.  
Charles F. Kerchner, Jr.

Sworn and subscribed to me  
this 8<sup>th</sup> day of February, 2009.

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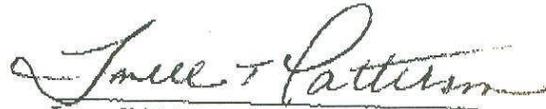
Mario Apuzzo, Esq.  
Attorney at Law of the  
State of New Jersey

**VERIFICATION**

I, **Lowell T. Patterson**, being of full age, upon my oath do depose and say:

1. I am the one of the plaintiffs in the above-captioned matter and familiar with the facts herein.

2. I have read the allegations and statements in the accompanying complaint and they are true to the best of my knowledge, information and belief.

  
Lowell T. Patterson

Sworn and subscribed to me  
this 8 day of February, 2009.



Notary Public of New Jersey

**Dixie Lee Patterson**  
**Notary Public of NJ**  
**My Commission Expires**  
**2/27/2011**

VERIFICATION

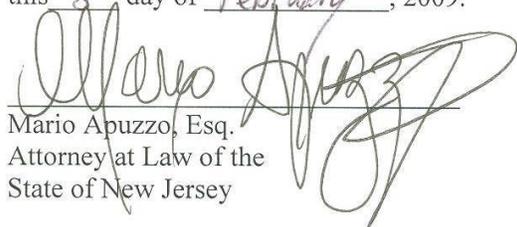
I, **Darrell James LeNormand**, being of full age, upon my oath do depose and say:

1. I am the one of the plaintiffs in the above-captioned matter and familiar with the facts herein.

2. I have read the allegations and statements in the accompanying complaint and they are true to the best of my knowledge, information and belief.

  
Darrell James LeNormand

Sworn and subscribed to me  
this 8 day of February, 2009.

  
Mario Apuzzo, Esq.  
Attorney at Law of the  
State of New Jersey