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 18 Official Capacity as New Hampshire Secretary of State and  
 19 The New Hampshire Ballot Law Commission

20 UNITED STATES DISTRICT COURT  
 21 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
 22 SOUTHERN DIVISION

23 Keith Judd, Orly Taitz, et al.	)	Case No.: SACV 12-cv-01507 DOC (ANx)
24 Plaintiffs,	)	
25 vs.	)	DATE: November 12, 2012
	)	TIME: 8:30 a.m.
26 Barrack Obama et al.	)	CTRM: 9D
27 Defendants	)	Hon. David O. Carter
	)	

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28 (1) NOTICE OF MOTION AND MOTION TO DISMISS; AND  
 (2) MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF  
 MOTION

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**NOTICE OF MOTION AND MOTION TO DISMISS**

PLEASE TAKE NOTICE that on November 12, 2012 at 8:30 a.m., defendants William M. Gardner, as New Hampshire Secretary of State; and the Ballot Law Commission of the State of New Hampshire will bring on for hearing the within Motion to Dismiss, before the Honorable David O. Carter, in his courtroom located at 411 West Fourth Street, Santa Ana, California 92701.

The New Hampshire defendants, by and through undersigned counsel, hereby specially appear and move this Court pursuant to Federal Rules of Civil Procedure 12(b)(5) and 12(b)(2) for an order dismissing plaintiffs' action against them with prejudice. This motion is made on the grounds that this Court lacks personal jurisdiction over plaintiffs' claims against the New Hampshire defendants and that plaintiffs have failed to properly serve the New Hampshire defendants.

This Motion is based on the attached Memorandum of Points and Authorities, pleadings heretofore filed by plaintiffs, and grounds as may be advanced in the future. This Motion is made following conference of counsel pursuant to Local Rule 7-3 which took place on October 3, 2012. A proposed order is attached. In addition the New Hampshire defendants request that a ruling be made without the need of a hearing.

Respectfully submitted,

NEW HAMPSHIRE SECRETARY OF STATE, WILLIAM GARDNER AND  
NEW HAMPSHIRE BALLOT LAW COMMISSION'S MOTION TO DISMISS

1 Dated: October 9, 2012

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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 IN SUPPORT OF MOTION

3  
4 **I. INTRODUCTION**

5 Plaintiffs, to include among others, Attorney Orley Taitz and three New  
6 Hampshire representatives, bring an action against a hodgepodge of parties  
7 alleging an assortment of various claims. The mishmash of claims arise out of a  
8 belief that President Obama is not a natural born citizen of the United State and  
9 allege a multitude of wrongdoing to include fraud, conspiracy, defamation, etc.  
10 Plaintiffs include vaguely defined claims against the New Hampshire Secretary of  
11 State and the New Hampshire Ballot Law Commission (BLC) which allege fraud,  
12 complicity and negligence. *See* First Amended Complaint, (¶¶40, 174 -189).<sup>1</sup>  
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17 Plaintiffs' action against the New Hampshire Secretary of State and the BLC  
18 is flawed for a myriad of reasons. This special appearance, motion and  
19 memorandum, however, only address the lack of proper service and lack of  
20 personal jurisdiction/venue issues.<sup>2</sup> In essence, Plaintiffs are attempting to litigate  
21 against the New Hampshire Secretary of State and the BLC in a California federal  
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25 <sup>1</sup> The Complaint received by the attorney general in New Hampshire is missing several pages, including pages  
26 containing paragraphs 182-189 which potentially include further allegations against New Hampshire defendants.

27 <sup>2</sup> The New Hampshire defendants do not waive any other defenses it has by not addressing them in this Motion and  
28 Memorandum. For example, the New Hampshire defendants do not waive *inter alia*, immunity, standing and subject  
matter jurisdiction arguments. *Craters & Freighters v. Daisychain Enters.*, 2010 U.S. Dist. LEXIS 18133, 7 (N.D.  
Cal. Mar. 2, 2010).

1 court where they have not properly served the New Hampshire defendants pursuant  
2 to Fed.R.Civ.P. 4(j)(2) and cannot satisfy the jurisdictional prerequisites in order to  
3 maintain an action against State of New Hampshire official governmental entities  
4 in California federal court.

6 If plaintiffs claim personal jurisdiction against the State of New Hampshire  
7 Secretary and BLC based on the vaguely defined RICO claims against the  
8 “defendants” as a group, the claims still fail. RICO claims are insufficient to  
9 confer jurisdiction against government entities or officials since government bodies  
10 “are incapable of forming a malicious intent.” *Perales v. City of Buena Park*, 453  
11 Fed. Appx. 730 (9<sup>th</sup> Cir. 2011) citing *Lancaster Community Hosp. v. Antelope*  
12 *Valley Hosp. Dist.*, 940 F.2d 397, 404 (9th Cir. 1991), *cert. denied*, 502 U.S. 1094,  
13 112 S. Ct. 1168, 117 L. Ed. 2d 414 (1992); *see also Tate v. Board of Prison Terms*,  
14 2010 U.S. Dist. LEXIS 48572, 2010 WL 1980141 (C.D. Cal. Mar. 16,  
15 2010)(indicating that suing a government official in his official capacity is the  
16 equivalent of suing the government) citing *Pedrina v. Chun*, 97 F.3d 1296, 1300  
17 (9th Cir. 1996). As such, any reliance on the provisions of 28 U.S.C § 1965 to  
18 confer personal jurisdiction under an “ends of justice” theory is inappropriate and  
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1 must be disregarded. Accordingly, the claims against the New Hampshire  
2 Secretary of State and the BLC should be dismissed with prejudice.<sup>3</sup>

## 3 **II. STANDARD OF REVIEW**

4  
5 Where a defendant moves to dismiss a complaint for lack of personal  
6 jurisdiction or lack of proper service, the plaintiff bears the burden of  
7 demonstrating that jurisdiction is appropriate. *Schwarzenegger v. Fred Martin*  
8 *Motor Co.*, 374 F.3d 797, 800 (9<sup>th</sup> Cir. 2004); *citing Sher v. Johnson*, 911 F.2d  
9 1357, 1361 (9th Cir. 1990); *Brockmeyer v. May*, 383 F.3d 798, 801 (9th Cir.  
10 2004). "Before a federal court may exercise personal jurisdiction over a defendant,  
11 the procedural requirement of service of summons must be satisfied." *Omni*  
12 *Capital Int'l v. Rudolf Wolff & Co.*, 484 U.S. 97, 104, 108 S. Ct. 404, 98 L. Ed. 2d  
13 415 (1987); *see also Murphy Bros. v. Michetti Pipe Stringing*, 526 U.S. 344, 350,  
14 119 S. Ct. 1322, 143 L. Ed. 2d 448; 526 U.S. 344, 119 S. Ct. 1322, 143 L. Ed. 2d  
15 448 (1999) ("In the absence of service of process (or waiver of service by the  
16 defendant), a court ordinarily may not exercise power over a party the complaint  
17 names as defendant.").

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19 As such, this Court must determine as a threshold matter if proper service  
20 has been achieved. Proper service of process is required for federal courts to  
21 obtain personal jurisdiction over a defendant. *Action Embroidery Corp. v. Atl.*

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28 <sup>3</sup> Since the dismissal does not rest solely on the grounds of insufficient service, Plaintiffs ability to perfect service would fail to cure the defect and dismissal should be with prejudice.

1 *Embroidery, Inc.*, 368 F.3d 1174, 1177 (9th Cir. 2004); *Benny v. Pipes*, 799 F.2d  
2 489, 492 (9th Cir. 1986).

3  
4 Once the question regarding sufficiency of service has been answered the  
5 court must then evaluate the personal jurisdiction question. Where there is no  
6 applicable federal statute governing personal jurisdiction<sup>4</sup>, the district court should  
7 apply the law of the state in which the district court sits. *See Schwarzenegger v.*  
8 *Fred Martin Motor Co.*, 374 F.3d at 800, *citing Panavision Int'l, L.P. v. Toeppen*,  
9 141 F.3d 1316, 1320 (9th Cir. 1998).

### 12 **III. ARGUMENT**

#### 13 **A. Plaintiffs' Have Failed to Properly Serve the State of New** 14 **Hampshire Defendants**

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16 A federal court lacks jurisdiction over a party where there is insufficient  
17 service of process. Unless there is "substantial compliance with Fed. R. Civ. P. 4"  
18 actual notice alone will not suffice to establish personal jurisdiction. *Cranford v.*  
19 *United States*, 359 F. Supp. 2d 981, 983-84 (E.D. Cal. 2005) (*citing Benny*, 799  
20 F.2d at 492).

21  
22 Plaintiffs have failed to perfect service on the New Hampshire defendants.  
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26 <sup>4</sup>Again, any reliance on the provisions of 28 U.S.C. §1965 is misplaced and inappropriate given the claims are  
27 against the New Hampshire Secretary of State in his official capacity and the Ballot Law Commission – a state  
28 created executive entity. Moreover, even if Plaintiffs had claimed, which they did not, that the "ends of justice"  
require personal jurisdiction to be achieved, Plaintiffs have further failed to plead any facts meeting the three prong  
test as articulated in *Butcher's Union Local No. 498 v. SDC Investment, Inc.*, 788 F.2d 535 (9<sup>th</sup> Cir. 1986).

1 The Federal Rules of Civil Procedure provide that a "state-created governmental  
2 organization that is subject to suit must be served by: (A) delivering a copy of the  
3 summons and of the complaint to its chief executive officer; or (B) serving a copy  
4 of each in the manner prescribed by that state's law for serving a summons or like  
5 process on such a defendant." Fed. R. Civ. P. 4(j)(2). Here, plaintiffs have failed  
6 to meet either provision of 4(j)(2).  
7  
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9 As evidenced by page 4 of Document 10 filed by plaintiffs with this court on  
10 September 29, 2012, the First Amended Complaint was sent via the U.S. Postal  
11 Service to the Attorney General of New Hampshire by certified mail. The return  
12 receipt indicates it was received by a Melanie Barker on September 17, 2012.  
13  
14 Delivery of the complaint by such a method is insufficient as a matter of law. *See*  
15 *Yates v. Baldwin*, 633 F.3d 669, 672 (8<sup>th</sup> Cir. 2011)(noting certified mail is not  
16 considered "delivery" under Rule 4).  
17  
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19 The only proof of service filed by plaintiffs regarding the New Hampshire  
20 defendants is a certified mail receipt. Upon information and belief, no New  
21 Hampshire state official has been personally served by a non-plaintiff over the age  
22 of 18 at the Secretary of State's office with the summons and complaint, nor has  
23 Mr. Gardner personally received the summons and the complaint. Likewise, no  
24 individual member of the BLC has been served with the summons and complaint.  
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1 Fed. R. Civ. P. 4(j)(2)(B) authorizes service in a manner "prescribed by that  
2 state's law for serving a summons or like process on such a defendant. In New  
3 Hampshire there is no statute that specifies a separate method of service for the  
4 State, its officers, agencies, boards or commissions.<sup>5</sup> N.H. RSA 510, *et seq.*  
5 establishes the methods of service of process for New Hampshire. *See e.g.* N.H.  
6 RSA 510:2 (writs served by giving in hand or leaving at defendant's abode); N.H.  
7 RSA 510:10 (service against county on one of the commissioners and the treasurer;  
8 city upon mayor or alderman and city clerk; towns on one of the selectmen and  
9 town clerk; school district on one member of the board and the clerk of the  
10 district). No provision of New Hampshire law allows for service to be  
11 accomplished on a state official by sending the Attorney General a copy of a  
12 complaint through the mail.<sup>6</sup>

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18 Since plaintiffs have not complied with Fed. R. Civ. P. 4(j), they have failed  
19 to perfect service. Thus, this court has no jurisdiction over the New Hampshire  
20 defendants. The court should dismiss the action as the New Hampshire defendants  
21 themselves have not been given actual notice and would suffer prejudice by having  
22 to appear and answer the action. *See Borzeka v. Heckler*, 739 F.2d 444, 447 (9<sup>th</sup>  
23 Cir., 1984)(laying out four prong test to determine if dismissal is appropriate).

24  
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26 <sup>5</sup> The State has retained its sovereign immunity for most actions. Where it has waived such immunity for certain  
27 torts, any such claim must be filed first with the agency involved and then with the secretary of state.

28 <sup>6</sup> To the extent that Fed. R. Civ. P. 4 (d) provides a process for requesting waiver of service by mail, that section  
does not apply to state officials sued in their official capacities as they are not "[a]n individual, corporation or  
association." In any event, the plaintiffs did not request waiver of service in this case.

1                   **B. Plaintiffs' Have Not Alleged Facts Constituting a *Prima Facie***  
2                   **Showing of Personal Jurisdiction Over Non-Resident New**  
3                   **Hampshire State Defendants.**  
4

5           The United States District Court for the Central District of California has  
6 recognized, “[t]he exercise of personal jurisdiction over a nonresident Defendant  
7 requires the presence of two factors. The forum state's laws must provide a basis  
8 for exercising personal jurisdiction, and the assertion of personal jurisdiction must  
9 comport with due process. *Morris v. Atchity*, 2009 U.S. Dist. LEXIS 14581, 2009  
10 WL 463971 (C.D. Cal. Jan. 13, 2009) citing *Hirsch v. Blue Cross, Blue Shield*, 800  
11 F.2d 1474, 1477 (9th Cir. 1986). California requires analysis under due process –  
12 minimum contacts - to determine if personal jurisdiction has been satisfied. *See*  
13 *Morris v. Atchity*, at \*5 citing *Roth v. Garcia Marquez*, 942 F.2d 617, 620 (9th  
14 Cir. 1991).  
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19           In determining ‘minimum contacts’ with the forum state, courts distinguish  
20 between ‘specific’ and ‘general’ jurisdiction. “Specific jurisdiction exists when a  
21 state exercises personal jurisdiction over a defendant in a suit arising out of or  
22 relating to the defendant’s contacts with the forum, [while general jurisdiction] is  
23 based on the defendant’s general business contacts and permits a court to exercise  
24 its power in a case where the subject matter of the suit is unrelated to those  
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1 contacts. *Helicopteros Nacionales de Columbia, S.A. v. Hall*, 466 U.S. 408, 414-  
2 16, nn 8-9; 108 S.Ct. 1868, 80 L.E.2d 404(1984).

3  
4 California recognizes that the guiding principle in evaluating contacts with  
5 the forum state is that the defendant conducts some act by which the defendant  
6 purposefully avails itself of the privilege of conducting activities in California so  
7 as to invoke the benefits and protections of the forum state's laws. "If a defendant  
8 is domiciled in the forum state, or its activities there are substantial, continuous and  
9 systematic, a federal court can exercise general jurisdiction over that defendant as  
10 to any cause of action - even if unrelated to defendant's activities within the forum  
11 state. *Rocawear Licensing LLC v. Pacesetter Apparel Group*, 2007 U.S. Dist.  
12 LEXIS 98894, 2007 WL 5289737 (C.D. Cal. Sept. 12, 2007), citing *Perkins v.*  
13 *Benguet Consol. Mining Co.*, 342 U.S. 437, 445-47, 72 S. Ct. 413, 96 L. Ed. 485,  
14 63 Ohio Law Abs. 146 (1952).

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19 **1. No General or Specific Jurisdiction Over New Hampshire**

20 New Hampshire is a sovereign State whose capitol is Concord, New  
21 Hampshire. The BLC and the Secretary of State operate under authority set out in  
22 the New Hampshire Constitution or State Statute. The BLC and NH Secretary of  
23 State have no agent operating out of another sovereign state and the New  
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1 Hampshire legislature has not consented to the jurisdiction of the State of  
2 California.<sup>7</sup>

3 Applying California law to the issue of personal jurisdiction, the Plaintiffs  
4 must establish that the New Hampshire Secretary of State in his official capacity  
5 and the BLC each have minimum contacts with California before this court can  
6 exercise its jurisdiction over those New Hampshire defendants. *See*  
7  
8  
9 *Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d at 800; *citing Panavision*,  
10 141 F.3d at 1320 and Cal. Civ. Proc. Code § 410.10.

11  
12 That minimum standard has not been met here. Plaintiffs have not alleged  
13 and cannot allege any way in which William Gardner, in his official role as the  
14 New Hampshire Secretary of State or the executive entity that is the New  
15 Hampshire Ballot Law Commission have purposefully availed themselves to the  
16 California forum in the central district such that they could anticipate being haled  
17 into court in California by virtue of decisions made with respect to New Hampshire  
18 election law and more particularly placing Barack Obama on the New Hampshire  
19 ballot.  
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22  
23 Indeed, the New Hampshire defendants exercise their authority over the  
24 election process strictly through New Hampshire statutes. *See* N.H. RSA Title 63;  
25

26 <sup>7</sup> Indeed, the Eleventh Amendment to the U.S. Constitution prohibits federal jurisdiction over suits against the state  
27 or a state agency unless the state or agency consents to the suit. *See Seminole Tribe of Florida v. Florida*, 517 U.S.  
28 44, 53, 116 S. Ct. 1114, 134 L. Ed. 2d 252 (1996); *Pennhurst State School and Hospital v. Halderman*, 465 U.S. 89,  
100, 104 S. Ct. 900, 79 L. Ed. 2d 67 (1984); *Quern v. Jordan*, 440 U.S. 332, 342, 99 S. Ct. 1139, 59 L. Ed. 2d 358  
(1979). New Hampshire has not consented to suit in any federal district court.

1 ch 652-658. Neither the Secretary of State nor the BLC have authority to act , nor  
2 have they acted, outside of New Hampshire in fulfilling their statutory obligations.  
3  
4 The enabling statute for the Ballot Law Commission is found at N.H. RSA ch 665,  
5 *et seq.* N.H. RSA 665:6 specifically addresses the BLC's general duties. Those  
6 duties, like those of the Secretary of State apply only as to actions taken in New  
7  
8 Hampshire.

9 Simply put, New Hampshire defendants have no continuous or systematic  
10 presence in California and thus general jurisdiction cannot be established.  
11

12 Likewise, there is no specific jurisdiction that could attach over New Hampshire  
13 defendants either. In applying the Ninth Circuit's three prong test to determine the  
14 constitutional ability to exercise jurisdiction, plaintiffs cannot establish and have  
15 not provided facts to support jurisdiction. *See e.g. Ochoa v. J.B. Martin & Sons*  
16 *Farms, Inc.*, 287 F.3d 1182, 1188 (9th Cir. 2002)(evaluating whether it is  
17  
18 reasonable to assert jurisdiction, whether defendants purposefully avail themselves  
19 of court and whether they conduct forum related activities). Plaintiffs have not  
20 provided this court with any facts that suggest any of the prongs have been met.  
21

22 The New Hampshire defendants simply do not direct any of their conduct toward  
23  
24 California. To assert jurisdiction over the New Hampshire defendants without  
25 more violates the "traditional notions of fair play and substantial justice."  
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1           2.     **The Conspiracy Theory of Personal Jurisdiction Do Not Afford a**  
2                   **Proper Basis for Exercising Jurisdiction Over Non-Resident State**  
3                   **Official/ Entity Defendants.**  
4

5           Being unable to establish that the New Hampshire defendants are subject to  
6 either the general or specific jurisdiction of California it is anticipated that  
7 Plaintiffs will argue personal jurisdiction is appropriate because Plaintiffs have  
8 alleged a conspiracy. Plaintiffs' First Amended Complaint, however, does nothing  
9 more than contain some very generalized complaints against the "defendants."  
10 Plaintiffs allegations contain no specific particularities taken by New Hampshire  
11 defendants in furtherance of a conspiracy.  
12  
13

14           The fact that the State of New Hampshire holds elections, or included Barak  
15 Obama on its ballots despite being provided information by Plaintiff Taitz of her  
16 beliefs regarding alleged national origin issues, does nothing to support that the  
17 New Hampshire defendants acted together with any other named defendant or that  
18 they were involved in an enterprise with a pattern of racketeering activities. *See*  
19 *United States v. Rone*, 598 F.2d 564 (9th Cir. 1979), *cert. denied*, 445 U.S. 946  
20 (1980)(defining enterprise and pattern of activity).  
21  
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24           In *Morris v. Atchity*, the Central District Court indicated that "California  
25 does not recognize conspiracy as a basis for acquiring personal jurisdiction over a  
26 party." *Morris*, at 5 citing *Mansour v. Superior Court*, 38 Cal. App. 4th 1750,  
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1 1760, 46 Cal. Rptr. 2d 191 (1995). The *Morris* court, quoting *Kipperman v.*  
2 *McCone*, 422 F. Supp. 860, 873 n. 14 (N.D. Cal. 1976), also noted that the  
3 Northern District of California has stated "personal jurisdiction over any non-  
4 resident individual must be premised upon forum related acts personally  
5 committed by the individual. Imputed conduct is a connection too tenuous to  
6 warrant the exercise of personal jurisdiction." Thus, a conspiracy claim cannot  
7 impute personal jurisdiction." *Id.*  
8  
9

10 Here, the mishmash of named defendants have no connection with each  
11 other. The mere fact that each sovereign state carries out election activities under a  
12 federalist system does not bind them in any conspiratorial sense. In *Rocawear*  
13 *Licensing*, this district court (Carney, J.) found,  
14  
15

16 [i]n order to plead the existence of a nationwide conspiracy among  
17 Defendants, both the Ninth Circuit and the Supreme Court have required  
18 that a plaintiff make a showing that the defendant intended to enter into an  
19 agreement or that the defendant had knowledge of the essential nature of  
20 the conspiracy. A plaintiff must allege facts showing that the  
21 "conspirator[s]... intend[ed] to further an endeavor which, if completed,  
22 would satisfy all of the elements of a substantive criminal offense, but it  
23 suffices that [the conspirators] adopt[ed] the goal of furthering or  
24 facilitating the criminal endeavor." ... Additionally, the Ninth Circuit has  
25  
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28

1 required that a defendant must also have been "aware of the essential  
2 nature and scope of the enterprise and intended to participate in it." ...

3 While it is not necessary that each conspirator know all of the details of  
4 the conspiracy the evidence must show that the defendant "knowingly  
5 agree[d] to facilitate a scheme which includes the operation or  
6 management of a RICO enterprise."  
7  
8

9 *Rocawear Licensing LLC v. Pacesetter Apparel Group*, at pp. 16-17 [internal  
10 citations omitted].  
11

12 Plaintiffs here have done nothing to allege how William Gardner as New  
13 Hampshire's Secretary of State or the BLC acted in concert with any other named  
14 Defendant. Again, New Hampshire has its own distinct and unique elections law  
15 and the New Hampshire defendants were required to apply that independent,  
16 legislatively adopted statutory system to the ballot issues brought before them by  
17 Plaintiff Titz regarding the New Hampshire ballots in November 2011.  
18

19 Suggesting that failure to investigate whether Plaintiffs' claims regarding forged  
20 documents unrelated to New Hampshire ballot requirements were accurate  
21 somehow establishes complicit criminal activity is not only without legal merit, but  
22 illogical when no other state can apply New Hampshire ballot law and New  
23 Hampshire ballot law does nto apply to any other state.  
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27 **C. Venue Is Improper In The Central District of California**  
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1 “In most instances, the purposes of statutorily specified venue is to protect  
2 the defendant against the risk that the plaintiff will select an unfair or inconvenient  
3 place of trial.” *Leroy v. Great Western United Corp.*, 443 U.S. 173, 184, 99 S. Ct.  
4 2710, 61 L. Ed. 2d 464 (1979). To preserve an element of fairness, so that New  
5 Hampshire or other sovereign bodies are not haled into a remote district having no  
6 real relationship to the actual dispute, the actions or omissions must be more than  
7 tangentially connected for venue purposes and thus the test is not a particular  
8 defendant’s contacts with the forum but the location of those events or omissions  
9 giving rise to the claim. *Siegel v. Homestore, Inc.*, 255 F. Supp 451, 456-56 (E.D.  
10 Pa. 2003).

11  
12 Here Plaintiffs make no assertion as to why venue in the Central District of  
13 California is appropriate. One thing is obvious, however, the events or omissions  
14 giving rise to the allegations against New Hampshire defendants occurred in New  
15 Hampshire. “Generally, a plaintiff must demonstrate proper venue with respect to  
16 each cause of action and each [defendant]. *Elemary v. Philipp Holzmann A.G.*,  
17 533 F. Upp 2d 144, 149 (D.D.C., 2008)(quoting *Lamont v. Haig*, 590 F.2d 1124,  
18 1135 (D.C. Cir. 1978).

19  
20 Indeed, the use of an alleged co-conspirator’s acts to establish venue is  
21 frowned upon in that the “Supreme Court has labeled the conspiracy doctrine in  
22 the venue context as having ‘all the earmarks of a frivolous albeit ingenious  
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1 attempt to expand [venue].” *In re New Motor Vehicles Canadian Export*, 307 F.  
2 Supp 2d 145, 158 (D.Me. 2004)(quoting *Bankers Life Cas. Co. v. Holland*, 346  
3 U.S. 379, 384; 74 S.Ct. 145, 98 L.Ed. 106 (1953)).  
4

5 Plaintiffs make no allegation that the New Hampshire defendants have  
6 committed any acts within the district. More critical is that plaintiffs have not  
7 alleged that venue is appropriate in this district. Furthermore, plaintiffs have  
8 asserted no specific grounds under which the New Hampshire defendants  
9 participated in a multidistrict conspiracy. Again a mere allegation that New  
10 Hampshire should have somehow done more with regard to identification  
11 documents does not constitute sufficient grounds to establish a nationwide  
12 conspiracy. *See e.g. Butchers Union*, 788 F.2d at 539. Plaintiffs’ vague  
13 allegations against New Hampshire defendants cannot be sufficient to drag the  
14 state defendants thousands of miles outside of New Hampshire and bear the cost of  
15 defending an action that has already been adjudicated in New Hampshire.  
16  
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#### 20 **IV. CONCLUSION**

21  
22 For the foregoing reasons, this action should be dismissed as to the New  
23 Hampshire Defendants in its entirety for lack of personal jurisdiction, improper  
24 service and for lack of venue. Moreover, because the personal jurisdiction defects  
25 cannot be cured as to the New Hampshire defendants, the case should be dismissed  
26 with prejudice. Judgment should be entered according, without the need for  
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28  
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1 hearing on the issue. If, the court, however believes a hearing is necessary the  
2 New Hampshire defendants ask that they be permitted to attend via telephone  
3 conference.  
4

5 Dated: October 9, 2012

Respectfully submitted,

6 /s/ Nancy J. Smith

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**PROOF OF SERVICE**

I, Deborah Stephens, attest that I am not a party to this litigation, I am over the age of 18 and that I have served all parties that have appeared in this matter as listed below in the manner stated on this date, October 9, 2012 with this document, Motion to Dismiss by New Hampshire Defendants and Memorandum of Points and Authorities.

By electronic filing with the court:

Attorney for Plaintiffs: Orly Taitz, Orly Taitz Law Offices, 29839 Santa Margarita Pkwy Suite 100, Rancho Santa Margarita, CA 92688

The ECF Docket indicates that no other parties have appeared at the time this Motion was Submitted by ECF filing by local counsel.

Dated: October 9, 2012

/s/ Deborah Stephens  
\_\_\_\_\_  
Deborah Stephens