

IN THE NINTH CIRCUIT COURT OF APPEALS

CASE # 57177

JUDD ET AL

V

OBAMA ET AL

APPELLANTS' OPENING BRIEF

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JURISDICTION AND STANDARD OF REVIEW

28 USC § 1295 - Jurisdiction of the United States Court of Appeals for the Federal Circuit

(1) of an appeal from a final decision of a district court of the United States, the District Court of Guam, the District Court of the Virgin Islands, or the District Court of the Northern Mariana Islands, in any civil action arising under, or in any civil action in which a party has asserted a compulsory counterclaim arising under, any Act of Congress relating to patents or plant variety protection;

(2) of an appeal from a final decision of a district court of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, the District Court of the Virgin Islands, or the District Court for the Northern Mariana Islands, if the jurisdiction of that court was based, in whole or in part, on section 1346 of this title, except that jurisdiction of an appeal in a case brought in a district court under section 1346 (a)(1), 1346 (b), 1346 (e), or 1346 (f) of this title or under section 1346 (a)(2) when the claim is founded upon an Act of Congress or a regulation of an executive department providing for internal revenue shall be governed by sections 1291, 1292, and 1294 of this title.

Standard of review –De Novo.

BACKGROUND AND SUMMARY OF THE CASE

The case at hand was filed by a Presidential candidate, who ran in 2012 election in the state of West Virginia against Candidate for President Barack Obama and received 42% of the vote in the Democratic Party primary, as well as other voters and candidates.

The premise of this legal action is elections fraud. Appellants allege that U.S. District Court David O. Carter is simply acting as a gate keeper for Barack Obama and administration and time and again abuses his judicial discretion and dismisses legal challenges dealing with elections fraud and specifically dealing with fraud committed by Candidate for the U.S. President Barack Hussein Obama, aka Barry Soetoro, aka Barack (Barry) Obama Soebarkah, aka alias Harrison (Harry) J Bounel, who is using a stolen Social Security number xxx-xx-4425 of Harrison J. Bounel, born in 1890, presumed to be deceased, as well as forged birth certificate and forged

Selective Service certificate as a basis for his legitimacy of the U.S. Presidency. Plaintiffs are seeking declaratory and injunctive relief.

45 licensed attorneys all over this nation as well as hundreds of pro se litigants filed similar legal action. To complete horror and astonishment of some 60 million people, who opposed Obama in the latest election, and who followed these cases, not one single legal action was adjudicated on the merits, not one single judge has issued a motion to compel production of the original wet ink birth certificate, selective service registration and application for Social Security number for Obama, while those judges had in front of them evidence of hundreds of pages of affidavits and official records showing that the copies released to the public were laughable crude forgeries. For five years U.S. Judiciary kept Obama above the law and outside the law. The laws were bent out of shape time and again to accommodate Obama and cover up his forged and stolen IDs. Time and again a number of civil rights attorneys were intimidated, harassed, verbally attacked by judges, sanctioned with one obvious goal, to shield Obama and cover up his use of forged and stolen IDs.

The status of the U.S. Judiciary today is reminiscent of the judiciary in the Communist Soviet Union or NAZI Germany. Germany in 1932-1945 had a Constitution, parliament, codes, thousands of highly educated judges, however not one single judge in Germany found actions of Adolf Hitler to be in any way illegal or unconstitutional. In years of Communist dictatorship in the Soviet Union and Communist China not one single judge found actions of Stalin or Mao to be illegal or unconstitutional. Actions of the U.S. judiciary during the Obama regime are very similar: judges have in front of them all the evidence of the usurpation of the U.S. Presidency by a criminal who does not have one single valid ID, using crude forgeries and the judges are

simply using one bogus excuse after another to cover up flagrant elections fraud and forgery. Actions by judges are so egregious that they amount to criminal complicity and possibly treason.

In his book “Making our Democracy work: A Judge’s View” Supreme court Justice Stephen Breyer describes his visit to the former Soviet Union, where he appeared before hundreds of Russian judges trying to persuade them that democracy works, that the judiciary can be independent and does not have to follow the marching orders given by the establishment, it does not have to be a “telephone justice”. Sadly it seems that the opposite happened, that the U.S. Judges learned the art of the “telephone justice”, which is the only reasonable explanation as to why the issue of Obama’s use of flagrantly forged IDs and a stolen Connecticut Social Security number had not been heard on the merits yet. This nation will turn into NAZI Germany if one court with some honesty and integrity does not hear this matter on the merits. Decision by Judge Carter to strike the complaint at hand was one of those examples of bogus excuses found by judges in order to avoid hearing this matter on the merits.

In three cases brought to challenge Obama's eligibility Judge Carter showed bias and abuse of Judicial discretion.

Under signed attorney brought three cases challenging Obama's legitimacy to the U.S. Presidency in light of his flagrant use of forged IDs and a fraudulently obtained Social Security number. First Case was brought on inauguration day January 20, 2009. This case was brought on behalf of a Presidential candidate from American Independent Party, former U.N. ambassador Dr. Alan Keyes 09-cv-82 DOC USDC Central District of California. Aside from Keyes 40 State Representatives, members of the U.S. military and others joined the case as plaintiffs. In Keyes Obama was served four times and he simply ignored service of process and Plaintiffs sought a

Default Judgment against Obama. In June 2009 Judge David O. Carter held a hearing and pressured Taitz, attorney for the Plaintiffs, to serve Obama yet again. Taitz repeatedly refused and demanded a default judgment. Judge Carter pressured her and assured her that if she serves Obama yet again, the case will be heard on the merits, and will not be dismissed based on lack of standing or lack of jurisdiction. After Taitz served Obama yet again, Judge Carter did what he precisely promised not to do, he dismissed the case claiming lack of jurisdiction. The case went to the 9th Circuit and the Ninth Circuit ruled that since the case was filed two hours after the swearing ceremony, the court lost jurisdiction. Ninth Circuit found that Jurisdiction existed up to inauguration and taking office *Keyes, Barnett et al v Obama et al* 10-cv-55084 Ninth Circuit Court of Appeals.

ARGUMENT

A. JUDGE CARTER EXHIBITED BIAS AND ABUSE OF JUDICIAL DISCRETION IN STRIKING THE COMPLAINT

Different courts have different rules of filing initiating documents and complaint. Some courts allow attorneys to file all initiating documents electronically, such as it is done in the Eastern district, other require to file the initiating documents in the paper form at the clerks' office. Attorney herein, Taitz, filed an attached affidavit stating that she has been a licensed attorney for 11 years, she filed a number of cases in the Central District and until the Judd case at all times upon submitting the complaint and initiating documents in the paper form with the clerks' office, the clerks' office itself entered the complaint in the electronic docket and all subsequent documents were entered by the attorney.

Case 12-cv-1507 was dismissed due to ineffective removal from the state court, not due to lack of electronic copies of the complaint.

case 12-cv-1888 was filed on 10.30.2012 by Taitz, complaint was filed by Taitz on 10.30.2013. The case was assigned to Judge Selna.

On 11.01.2012 Judge David O. Carter without any explanation took the case away from Judge Selna, just as he did it in case 12-cv-1507, where he, also, without any explanation took the case away from another judge. Even though the case dealt with elections fraud, Judge Carter simply

waited for the election, ostensibly waiting to see who is going to win. When Obama won the election on November 6, Judge Carter simply have stricken the complaint and dismissed the case claiming that it was done due to lack of computer copy of the complaint filed by Taitz in paper form on 10.30.2013. Judge Carter did not give any warning and did not give any leave to file a copy of the complaint.

Judge David O. Carter has stricken the complaint and dismissed the case stating:

PROCEEDING (IN CHAMBERS): ORDER STRIKING COMPLAINT (DKT. 1)

The Court hereby STRIKES Plaintiffs' Complaint for failure to comply with Local Rule 3-2. That rule states:

“All Claim-Initiating Documents and simultaneously filed emergency-relief documents shall also be submitted in electronic form (PDF format only) by close of business the following business day [after filing in paper format]. . . . Attorneys who fail to timely e-mail PDF copies of these documents shall be subject to such sanctions as may be imposed by the Court.”

The Court notes that Plaintiffs similarly failed to comply with this Rule the last time they brought this lawsuit, and never filed a copy of their claim-initiating document. *See Keith Judd et al. v. Barack Obama et al.*, 8:12-cv-1507-DOC-AN (filed September 10, 2012) (Dkts. 1 & 6).

The Clerk shall serve a copy of this minute order on counsel for all parties in this action.

B. STRIKING OF THE COMPLAINT AT HAND WAS AGAINST PUBLIC INTEREST AND PUBLIC POLICY AND REPRESENTED BIAS AND ABUSE OF JUDICIAL DISCRETION

Complaint at hand included:

Affidavit of elections challenge by Candidate for U.S. Senate Plaintiff Orly Taitz with following exhibits

1. Affidavit of Sheriff Arpaio, indicating that Barack Obama's birth certificate, Selective Service certificate and Social security cards represent forged or fraudulently obtained documents.
2. Affidavit of Douglas Vogt, expert in scanning and printing machines, attesting to the fact that Obama's birth certificate is a forgery.

3. Affidavit of former employee of the National Security Agency and expert in typesetting and printing with 60 years of experience, Paul Irely, attesting to the fact that Obama's birth certificate represents a forgery.
4. Affidavit from Timothy Adams, City and County of Honolulu elections division and Senior Elections Clerk stating that there is no birth certificate for Barack Obama in any hospital in Hawaii
5. Affidavit of an expert in Information Technology, Felicito Papa attesting to the fact that Obama's alleged birth certificate opens in multiple layers, which is a sign of it being a computer generated forgery
6. Exhibit 6 Affidavit of Felicito Papa, expert in Information Technology, attesting to the fact that Obama originally did not flatten the PDF file, when he posted his tax returns on line and unredacted Connecticut Social Security number xxx-xx-4425 used by Obama became available to thousands of individuals, who opened aforementioned 2009 tax return with Adobe Illustrator.
7. Exhibit 7 Affidavit of Linda Jordan authenticating attached E-Verify attesting to the fact that the Social security number xxx-xx-4425 used by Obama in his tax returns was never assigned to Obama.
8. Exhibit 8, official Social Security Number Verification (SSNVS) report showing that Connecticut Social Security number used by Obama in his tax returns, was never assigned to Obama.
9. Exhibit 9 Affidavit of John Sampson, Senior Deportation Officer with 30 years of experience, who attested to the fact that there is no legitimate reason for Obama to have a

Connecticut Social Security number, as Obama was never a resident of the state of Connecticut.

10. Exhibit 10, Video tape of sworn testimony of witnesses Sampson, Vogt, Daniels, Jordan, Strunk, attesting to evidence of forgery in Obama's IDs. Notice of lodging of the videotape is on pp #185, 186.
11. Exhibit 11. Affidavit of Lance Aguilar, attesting to the fact that he and his wife prevented from voting for candidate for the U.S. Senate Orly Taitz during the primary election
12. Exhibit 12 Examples of pages of voter registrations showing thousands of voters born in 1850 (162 years old) and still actively voting, multiple pages of highly suspect voter registrations
13. Exhibit 13 Barack Obama's school registration #203 from Assissi School in Indonesia, made public by AP that shows Obama being a citizen of Indonesia, not U.S. citizen, and his last name being Soetoro, his step father's last name, not Obama.
14. Exhibit 14 Passport records of Barack Obama's mother, Stanley Ann Dunham, showing Obama's last name to be Soebarkah (blend of Soetoro and Barack per East Asian tradition) and it shows him being stricken from his mother's record upon receipt of foreign allegiance.
15. Exhibit 15 Affidavit of Licensed Investigator Susan Daniels attesting to the fact that in National databases both Barack and Michelle Obama are linked to multiple social Security numbers, one of them belongs to deceased Lucille Ballantyne (deceased mother of the former Chief Actuary of the Social Security administration), as well as number xxx-xx-4425, most often used by Obama, which is linked to an individual born in 1890.

16. Exhibit 16, Transcript of the March 25, 2010 session of the republic of Kenya, where the Minister of Lands speaks out about Obama's birth in Kenya.
17. Exhibit 17 Obama's biography submitted by Obama to his publisher Acton and Dystel in 1991, where Obama states that he was born in Kenya. Biography was in print and on line for 16 years until Obama started running for office of the U.S. President and decided that he needs to be a Natural Born U.S. citizen, at which time the biography was removed from the web site and later located through wayback machine.
18. Exhibit 18. Affidavit of software engineer David Yun, attesting to identification of 756,217 invalid voter registrations in the official database provided by the Secretary of State of California, according to California elections statute 2150
19. Exhibit 19. Additional affidavit of software engineer David Yun, attesting to 685,739 additional invalid voter registration under a different category of California elections code 2150.
20. Exhibit 20. A letter from the California bar, stating that the issue of Obama's alleged forged IDs is a matter of National security and needs to be adjudicated by the courts.
21. Exhibit 21 Certificate of life birth from 1961 and Obama's alleged birth certificate exhibiting a number of different features.
22. Exhibit 22. Official Certificate of Candidate submitted by the Democratic Party of Hawaii to the department of elections for candidates Al Gore, John Kerry and Barack Obama. Obama's OCON is falsified and statement "eligible according to provisions of the U.S. Constitution" were removed from Obama's OCON. Obama is left as eligible only according to "national Democratic Party Ballotting"
23. DNC Certification for John Kerry

24. DNC Certification for Al Gore
25. DNC Certification for Barack Obama
26. Article in Daily Beast defaming and assassinating the character of Attorney Taitz for her speaking out on Obama's use of forged IDs.
27. Article in Forbes magazine defaming and assassinating the character of Attorney Orly Taitz for her speaking out on Obama's use of forged IDs.
28. E-mail from the office of Orange County Registrar to retired NATO relational Data specialist George Collins, making an admission against interest that the office of the Orange County Registrar routinely falsified voter registrations by making up and entering missing dates of birth.
29. E-mail from the office of Los Angeles County Registrar to retired U.S. army intelligence Officer Pamela Barnett, making an admission against interest, admitting that employees of the office of Los Angeles Registrar were told to falsify the voter registrations and enter U.S. or USA in the registrations missing "state of birth" which was required according to CA elections code 2150.
30. Article on non-citizens political representation
31. NewamericanMedia.org article showing results of PEW research estimating the number of invalid voter registrations in the United States to be at 24 million.
32. Sworn affidavit of a retired NATO relational data analyst George Collins attesting to multiple voter registrations in the state of California database, showing voters born in 1850-1890, who are still voting by absentee ballots.

33. Exhibit 33, Affidavit of Vincent Pertoso, expert in software test and evaluation with 35 years of experience attesting to flaws in elections software and hardware used in CA, which makes it highly vulnerable to rigging and hacking
34. Exhibit 34. Voter registration and background history of Damon Dunn, who was registered as a Democrat in Texas and Florida, left blank the area of prior registrations in his California voter registration, all of this was reported to the Secretary of State and the Secretary of State not only allowed Dunn to be a voter, but also allowed Dunn to run for the position of the Secretary of State of California as a Republican candidate. Attached is also a letter from Jacksonville Florida Registrar, stating that Dunn tried to remove from his voter registration (as a Democrat) to be deleted from the database. affidavit of TV reporter William Waggener attesting to the fact that he interviewed elderly individuals in Leisure World retirement community, where nominators stated that they never signed the nominations for Damon Dunn, which were submitted to the secretary of State on their behalf and supposedly with their signatures.
35. Exhibit 35 shows fraud committed by CNN network, which showed a microfilm of a birth certificate on "Anderson Cooper 360 Making them Honest" show, where CNN claimed that it was an original birth certificate of Barack Obama, while magnification of the image showed that it belonged to a completely different person.

As can be seen just by the list of exhibits, this 102 page complaint with 173 pages of exhibits was a result of very detailed and involved investigation into the elections fraud. Not only it showed Barack Obama using a stolen Connecticut Social Security number and laughable forgeries instead of valid IDs, it also showed the Secretary of State of California being completely derelict in her duties, registrars instructing their employees to flagrantly falsify voter

registrations and as a result around 1.5 million invalid voter registrations only in two out of eight categories of voter data required by the California elections statute 2150.

Judge David O. Carter was very familiar with these issues, particularly since he presided over a similar case brought by the same attorney on behalf of Ambassador Alan Keyes and since he knew that the issues were not heard on the merits in 2008, but were rather dismissed due to the fact that complaint was brought few hours after the 2008 election.

Judge carter knew that this was a matter of National importance and the most egregious breach of National Security.

In light of all of the above the question begs; "Was behavior of Judge Carter in waiting to see which way the wind blows on November 6 and striking a complaint on minor technicality on November 7 reasonable, or was it a manifestation of unprecedented bias against the plaintiffs and in favor of the defendants and an abuse of judicial discretion? Plaintiffs -appellants submit that it was a manifestation of bias and an abuse of judicial discretion.

Based on the fact that the complaint was filed prior to the National election, knowing that the time was of the essence, knowing importance of the matter for the nation as a whole, a reasonable judge would simply issue an order to submit another copy of the complaint, providing additional time to do that. Defendants did not answer yet and were not prejudiced in any way.

The only reason for striking the complaint and subjecting the whole nation to four more years of the usurpation of the U.S. Presidency, was bias and abuse of judicial discretion.

Moreover, today millions of American citizens are wondering: what happened to the U.S. judiciary, how come in over four years the issue of Obama's use of forged IDs and a stolen Social Security number was not heard on the merits yet?

An answer might have been given recently as the NSA whistle blower Edward Snowden blew the whistle on the most egregious spying on the U.S. citizens by the Obama regime using NSA and a program called Prism. In his interviews Snowden disclosed that he was able to see all of the private information, e-mails, phone calls of anyone, including Federal judges.

Today we have a situation where federal judges gave Obama regime a card blanche to obtain billions of records of millions of innocent Americans. It is done without any probable cause, without any opportunity to object. Obama and his regime can use these records any way they wish, they can deprive people of their jobs, destroy their businesses and their lives.

At the same time federal judges, like Judge Carter, have in front of them undeniable evidence showing Obama to be a citizen of Indonesia, born in Kenya, using forged IDs and a stolen Social Security number, and they find any and all bogus excuses, any minor technical reasons to strike and dismiss the complaints against Obama in order to cover up his use of forged and stolen IDs and allow him to continue usurping the U.S. Presidency. That undeniably represents bias, abuse of Judicial Discretion and it is against the Public Policy.

Today the public is convinced that the reason the judges showed no integrity and violated their oath of office and covered up Obama's use of forged and stolen IDs, is the fact that Obama regime had personal information of judges, which regime could use to intimidate, blackmail or incentivize judges.

The question is, what about the judges of the Ninth Circuit?

C. BEHAVIOR OF JUDGE CARTER REPRESENTS DEPRIVATION OF THE 14TH AND 5TH AMENDMENT DUE PROCESS AND EQUAL PROTECTION RIGHTS.

Plaintiffs were entitled to reasonable Due Process. The fact that Judge David O Carter has simply stricken the complaint on a minor technicality and did not hear the case on the merits, represents deprivation of due process rights of the Plaintiffs.

Failure by Judge Carter to take into consideration importance of the issue of the usurpation of the U.S. Presidency and massive elections fraud, striking a complaint without a hearing and without giving any opportunity to correct a minor technical error represents an unreasonable departure of settled customs of jurisprudence and therefore Abuse of Judicial Discretion. The Plaintiffs searched on Westlaw precedents of complaints being stricken and cases dismissed on such minor technicality and could not find any such precedents. Even, if there would be precedents somewhere, and none were found, it definitely would and should not be a precedent in relation to a case of National importance.

Moreover, Plaintiffs demanded a Jury trial. Plaintiffs were entitled to their 7th amendment right to a Jury trial on all issues of fact and law. Plaintiffs were deprived of their 5th, 7th and 14th amendment rights.

Additionally, Plaintiffs were entitled to their First Amendment of the constitution right to a meaningful redress of grievances. Plaintiffs were completely denied of any meaningful redress of Grievances under the First Amendment.

D. FILING A MOTION FOR RECONSIDERATION OR REFILLING A COMPLAINT WOULD NOT LEAD TO ANY RESOLUTION AND WOULD ONLY JEOPARDIZE THE RIGHTS OF THE PLAINTIFFS.

Ninth Circuit Court of Appeals might ask, why didn't the Plaintiffs file a motion for reconsideration or re-file the case with the lower court? The answer is as follows:

1. Judge Carter waited until after the election to strike the complaint. It is important to preserve the original complaint date before the election.
2. There is a history of bias and abuse of Judicial Discretion by Judge Carter and therefore further requests for reconsideration are futile. As an example in *Keyes* case 09—cv-82 Attorney Taitz advised Judge Carter that his staff attorney –law clerk Siddharth Velamoor is an employee of the defense law firm Perkins-Coie, the law firm that defended Obama in these cases challenging Obama eligibility. Additionally, there are other connections between Velamoor and Obama. Velamoor comes from Mercer Island, a small community in Washington state where Obama's mother grew up and where family knows a lot of residents. Additionally, there was a very similar inconsistency in records of Obama and Velamoor. Specifically Obama was caught making fraudulent statements about his education, stating that he went to Columbia university for two years, while his college records from Columbia showed him there only for nine months. Similarly there were conflicting records of Velamoor studying law at Columbia University, and other records showing him studying at Comenius University in Slovakia, university that does not offer any Law school programs in English and there is no evidence Velamoor speaks a word in Slovak. Just the fact that an attorney from the defense law firm was writing an order for the presiding judge, was sufficient for reconsideration, but Judge Carter simply ignored the whole matter, did not address it. This represents bias and abuse of Judicial discretion, as established legal practice for the judge is to avoid any appearance of lack of impartiality.

Additionally, Judge Carter included in his final order to dismiss highly inflammatory and defamatory statements about the plaintiffs Attorney, based on some extrajudicial information, some letters sent to him by third parties to his chambers. Taitz demanded not only reconsideration, but also she demanded to strike from the record all defamatory statements or in the alternative hold an evidentiary hearing, so she could prove that she was defamed, that the statements had to be stricken from the records and parties involved should have been sanctioned by the judge. Additionally, there was a high probability that individuals involved were actually hired, paid by either Obama himself or someone close to him in order to assassinate the character of the attorney challenging Obama. Judge Carter simply ignored the whole matter and left all the defamatory statements, not only defaming Attorney for Plaintiffs Taitz, but by doing so, limiting her ability to be hired by other clients. Such actions show a departure from settled norm, a pattern of unreasonable departure of a settled judicial custom and represents a modus operandi of bias and abuse of judicial discretion. Taking cumulatively actions by Judge Carter in *Keyes* and *Judd*, it is clear that the case at hand is similar to *F. W. Woolworth Co. v. Contemporary Arts, Inc.* - 344 U.S. 228 (1952) In *Woolworth* the Supreme Court ruled “...asking to We accept the Court of Appeals' appraisal of the consequences of the judge's remarks on the factual issue of copyright infringement. But here, the trial judge gave **judgment for statutory damages in an amount that smacks of punitive qualities.** And this Court has held that the amount of such damages is committed to the unreviewable discretion of a trial judge. *Douglas v. Cunningham*, 294 U. S. 207, 294 U. S. 210. **In view of the remarks of the trial judge directed against the Woolworth Company, we think it had a just right to complain that the amount of damages imposed ought not to stand. We would reverse and remand this case for a new trial by another judge.**” (emphasys added). In *Judd* as well as *Keyes* actions by Judge Carter are clearly

punitive, designed to not only to shield Obama from exposure and adjudication on the merits of his use of flagrantly forged IDs and a stolen Social Security number, but he also manifested bias and abuse of Judicial discretion, when he allowed the attorney for the defense draft his opinion in Keyes and when he posted highly defamatory statements about the Plaintiff's attorney based on extrajudicial defamatory letters he received in his chambers and without giving the attorney an opportunity to respond and without holding any evidentiary hearing to ascertain, whether those statements were justified in any way. Additionally, Judge Carter took both cases 12-1507 and 12-1888 from other judges, whereby proper settled conduct would dictate that he should have recused himself from hearing any more cases dealing with Obama's fraudulent Identifications, not take more cases from other judges.

Similarly, in *McGown v. Superior Court* 75 Cal. App. 3d 648 California Court of Appeals for the Fifth District overruled to lower court finding bias in the court's failure to give the defendant adequate notice of his right to transfer the case to another county due to negative publicity. In the case at hand the presiding judge is the one, who created the negative publicity in the first place by including extrajudicial defamatory statements about the counsel for the Plaintiffs, the same counsel, who represented Plaintiffs in both Keyes and Judd and who was one of the Plaintiffs in Judd herself.

Moreover, Plaintiffs are seeking not only reinstatement, but also transfer to an another judge. a case *Amaral v Ruiz Food Products, Inc.* United States Court of Appeals, Ninth Circuit. - 990 F.2d 1255, says that the court should indeed reverse the case and transfer it to another judge. Ruiz asks that the case be remanded to a different judge. Remand to a different judge is granted only in "unusual circumstances." *Davis & Cox v. Summa Corp.*, 751 F.2d 1507, 1523 (9th

Cir.1985). In making this determination, we consider (1) whether the original judge would reasonably be expected upon remand to have substantial difficulty in putting out of his or her mind previously-expressed views or findings determined to be erroneous or based on evidence that must be rejected, (2) whether reassignment is advisable to preserve the appearance of justice, and (3) whether reassignment would entail waste and duplication out of proportion to any gain in preserving the appearance of fairness. *Id.* (quotation omitted). Under the circumstances of this case, we believe that that the interests of justice will be furthered by the assignment of the case to another judge to try the case on remand." Based on a three prong test of *Amaral* this case should be remanded and transferred to another judge. Judge Carter would have a difficulty of putting aside his previously expressed views, there will not be a waste of resources and the transfer is advisable to preserve the appearance of justice.

CONCLUSION

Based on all of the above Ninth Circuit court of Appeals should reverse the order by USDC court Judge David O Carter, reinstate the case and transfer to a different judge.

/s/ Orly Taitz

Counsel for the Plaintiffs

AFFIDAVIT OF ATTORNEY ORLY TAITZ

I am an attorney licensed in the state of California since 2002.

I filed multiple legal actions in the Central District of California.

Central District does not allow parties to file initiating papers electronically and demands that pro se plaintiffs and attorneys alike file the complaint and initiating documents in paper form in the clerk's office.

Until *Judd v Obama* case, every time I filed a case at the clerks' office in paper form, the complaint was entered by the clerks' office in the electronic docket. All further filings were made by me electronically.

Judd v Obama 12-cv- 1507 was dismissed based on ineffective removal from the state court, not due to failure to file an electronic copy of the complaint.

/s/ Orly Taitz

CERTIFICATE OF COMPLIANCE

Current brief does not exceed 14,000 words

/s/ Orly Taitz

CERTIFICATION OF INTERESTED PARTIES

There are no interested parties

/s/ Orly Taitz

APPENDIX

1. Order striking the complaint
2. Complaint and exhibits

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Janet Napolitano-Director of Homeland Security

Judge Clay D. Land

c/o U.S. Attorney for the Central District of California

411 W 4th street

Santa Ana CA 92701

Signed Lila Dubert

CERTIFICATE OF SERVICE

I, Lila Dubert, attest that I am not a party to this case, I am over 18 years old and I filed a copy of the this
appeallant brief to the defendants listed in the distribution list below

Lila Dubert

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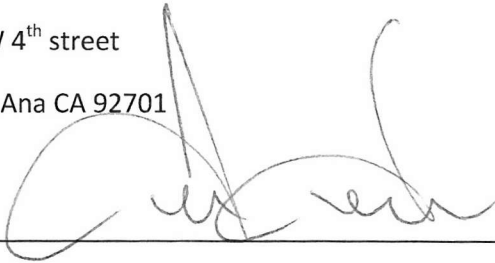
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A handwritten signature in black ink, appearing to read "Lila Dubert", is written over a horizontal line. The signature is fluid and cursive, with a large initial "L" and "D".

Signed Lila Dubert