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DECLARATION OF DAVID A. DeJUTE

I, DAVID A. DeJUTE, do hereby certify, declare and state as follows:

1. I am an Assistant United States Attorney with responsibility for handling the case captioned Barnett, et al. v. Obama, et al., SACV 09-0082 DOC (ANx). I have personal knowledge of the matters asserted in this declaration and, if called as a witness, would and could competently testify thereto.

2. On July 13, 2009, I appeared on behalf of the United States in this matter at the hearing on the Court's Order to Show Cause why the case should not be dismissed for failure to serve the original complaint.

3. At the conclusion of that hearing, at the Court's direction, I accompanied the Plaintiffs' attorney to the United States Attorney's Office to facilitate service of the Summons and original Complaint.

4. Once at the United States Attorney's Office, Plaintiffs' counsel announced that she did not have a Summons and that she would immediately go to the Clerk's Office to obtain one.

5. After approximately one hour, Plaintiffs' counsel returned with the original Complaint, on which she had written by hand "First Amended Complaint" as well as written the names of four additional plaintiffs. She represented that there were no other changes made to the original Complaint. Plaintiffs' counsel failed to return with a Summons issued for either the original Complaint or the first iteration of the First Amended Complaint.

6. On that same day, Plaintiffs' counsel represented to me that she would obtain a Summons on the First Amended Complaint by

1 the next day and properly serve the United States Attorney's
2 Office. To my knowledge, Plaintiffs' counsel has never obtained a
3 summons on any complaint.

4 7. Instead, on July 15, 2009, I received an email from
5 Charles Lincoln, attached as Exhibit 4, in which he requested a
6 waiver of the summons for all defendants on the First Amended
7 Complaint filed on that same day¹.

8 8. On July 21, 2009, I responded by letter, attached as
9 Exhibit 5, in which I explained that Plaintiffs had failed to
10 properly file a First Amended Complaint under the Local Rules and
11 had further failed to serve any complaint with a summons as ordered
12 by this Court. Nevertheless, mindful of this Court's preference to
13 move beyond procedural issues, I represented that we would accept
14 service on behalf of each of the named defendants *if* Plaintiffs
15 would properly file and serve the First Amended Complaint and
16 Summons. To my knowledge, Plaintiffs have never served the United
17 States Attorney's Office with a properly filed complaint and
18 summons.

19 Under penalty of perjury, and in accordance with 28 U.S.C. §
20 1746, I declare the foregoing to be true and correct to the best of
21 my knowledge and belief.

22 Executed this 19th day of August, 2009, in Los Angeles,
23 California.

24 
25 DAVID A. DeJUTE
26 Assistant United States Attorney

27 ¹ It should be noted that the First Amended Complaint
28 electronically filed on July 15, 2009, differs markedly from the first
iteration of the First Amended Complaint provided to me by hand on
July 13, 2009.

1 effect proper service, he would have to return with a Summons and
2 a First Amended Complaint and then serve it upon our office. The
3 Process Server agreed with me, and left.

4 (4) I hereby declare and verify under penalty of perjury
5 that the foregoing is true and correct, and if called as a
6 witness, I am competent to testify thereto.

7 Executed this 19 day of August, 2009, in Los Angeles,
8 California.

9 
10 _____
11 FLABIA DE LA ROSA
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EXHIBIT 2

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address) Orly Taitz, Esq 26302 La Paz Rd Ste 211 Mission Viejo CA 92691		TELEPHONE NO. (949) 683-5411	FOR COURT USE ONLY	
ATTORNEY FOR (Name) <i>Insert of Court Name of Judicial District and Branch Court if any</i> UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA				
SHORT TITLE OF CASE BARNETT v OBAMA et al				
1729098	(HEARING) Date	Time	Dept	Case Number SACV0900082DOC(Anx)
				REFERENCE NO. sacv09-00082doc

PROOF OF SERVICE C.C.P. 1011

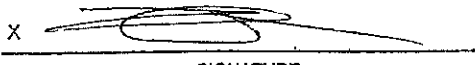
- I DECLARE: I AM OVER THE AGE OF EIGHTEEN YEARS AND NOT A PARTY TO THE ABOVE ENTITLED ACTION. MY BUSINESS ADDRESS IS 2900 BRISTOL, E106, COSTA-MESA, CA 92626 ON: 7/15/2009 AT 3:42:00 PM
- I DELIVERED A TRUE COPY OF THE:
1ST AMENDED COMPLAINT

IN THE MANNER PROVIDED IN (CCP1011) AS FOLLOWS:
 PARTY SERVED: Thomas O'Brien, U.S Attorney

PERSON RECEIVING COPIES: Flabia De La Rosa

ADDRESS: 300 N Los Angeles St Ste 7516
 Los Angeles CA 90012

(BY PERSONAL SERVICE) CAUSING EACH TO BE DELIVERED BY HAND TO THE OFFICES OF EACH IDENTIFIED ADDRESS AND/OR LEAVING THE SAME WITH THE PERSON IN CHARGE AT SAID ADDRESS(ES) DURING THE BUSINESS HOURS BETWEEN 9:00 AM AND 5:00PM.

7a. Person Serving:	Luis	Osuna	d. The fee for service was	\$39.50
b. DDS Legal Support 2900 Bristol St Costa Mesa, Ca 92626			e. I am:	
c. (714) 662-5555			(1) not a registered California process server:	
			(3) X registered California process server:	
			(i) Employee	
			(j) Registration No:	434
			(k) County: OC/LA	
8. I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.	Luis	Osuna	X	
7/23/2009				SIGNATURE

PROOF OF SERVICE

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address) Orly Taitz, Esq 26302 La Paz Rd Ste 211 Mission Viejo CA 92691		TELEPHONE NO. (949) 683-5411	FOR COURT USE ONLY	
ATTORNEY FOR (Name)				
Insert of Court Name of Judicial District and Branch Court if any UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA				
SHORT TITLE OF CASE BARNETT v OBAMA et al				
1736259	(HEARING) Date	Time	Dept	Case Number: SACV0900082DOC(Anx)
				REFERENCE NO sacv09-00082doc

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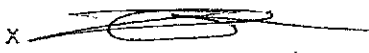
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- I DELIVERED A TRUE COPY OF THE:
1ST AMENDED COMPLAINT

IN THE MANNER PROVIDED IN (CCP1011) AS FOLLOWS:
PARTY SERVED: Roger E. West, U.S. Attorney

PERSON RECEIVING COPIES: Flabia De La Rosa

ADDRESS: 300 N Los Angeles St Ste 7516
Los Angeles CA 90012

(BY PERSONAL SERVICE) CAUSING EACH TO BE DELIVERED BY HAND TO THE OFFICES OF EACH IDENTIFIED ADDRESS AND/OR LEAVING THE SAME WITH THE PERSON IN CHARGE AT SAID ADDRESS(ES) DURING THE BUSINESS HOURS BETWEEN 9:00 AM AND 5:00PM.

7a. Person Serving: Luis Osuna	d. The fee for service was \$24.00
b. DDS Legal Support 2900 Bristol St Costa Mesa, Ca 92626	e. I am:
c. (714) 662-5555	(1) not a registered California process server:
8. I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Luis Osuna	(3) X registered California process server:
7/23/2009	(i) Employee
	(i) Registration No: 434
	(i) County: OC/LA
	X 
	SIGNATURE

PROOF OF SERVICE

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address) Orly Taitz, Esq 26302 La Paz Rd Ste 211 Mission Viejo CA 92691		TELEPHONE NO. (949) 683-5411	FOR COURT USE ONLY
ATTORNEY FOR (Name) <i>Insert of Court Name of Judicial District and Branch Court if any</i> UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA			
SHORT TITLE OF CASE BARNETT v OBAMA et al			
1729098	(HEARING) Date	Time	Dept
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REFERENCE NO. sacv09-00082doc			

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PARTY SERVED: Thomas O'Brien, U.S Attorney

PERSON RECEIVING COPIES: Fiabla De La Rosa

ADDRESS: 300 N Los Angeles St Ste 7516
Los Angeles CA 90012

(BY PERSONAL SERVICE) CAUSING EACH TO BE DELIVERED BY HAND TO THE OFFICES OF EACH IDENTIFIED ADDRESS AND/OR LEAVING THE SAME WITH THE PERSON IN CHARGE AT SAID ADDRESS(ES) DURING THE BUSINESS HOURS BETWEEN 9:00 AM AND 5:00PM.

7a. Person Serving: Luis Osuna

b. DDS Legal Support
2900 Bristol St
Costa Mesa, Ca 92626

c. (714) 662-5555

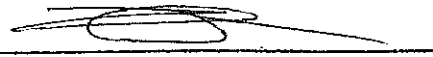
8. I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.
7/23/2009 Luis Osuna

d. The fee for service was \$39.50

e. I am:

- (1) not a registered California process server:
- (3) X registered California process server:
 - (i) Employee
 - (i) Registration No: 434
 - (i) County: OC/LA

X



SIGNATURE

PROOF OF SERVICE

EXHIBIT 3

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address) Orly Taitz, Esq 26302 La Paz Rd Ste 211 Mission Viejo CA 92691		TELEPHONE NO. (949) 683-5411	FOR COURT USE ONLY
ATTORNEY FOR (Name) Insert of Court Name of Judicial District and Branch Court if any UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA			
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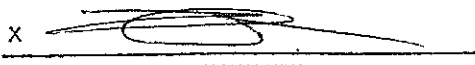
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PARTY SERVED: Thomas O'Brien, U.S Attorney

PERSON RECEIVING COPIES: Flabia De La Rosa

ADDRESS: 300 N Los Angeles St Ste 7516
Los Angeles CA 90012

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7a. Person Serving: Luis Osuna	d. The fee for service was \$39.50
b. DDS Legal Support 2900 Bristol St Costa Mesa, Ca 92626	e. I am:
c. (714) 662-5555	(1) not a registered California process server:
8. I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Luis Osuna	(3) X registered California process server:
7/23/2009	(i) Employee
	(j) Registration No: 434
	(i) County: OC/LA
	X 
	SIGNATURE

PROOF OF SERVICE

12

EXHIBIT 3

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address) Orly Taitz, Esq 26302 La Paz Rd Ste 211 Mission Viejo CA 92691		TELEPHONE NO. (949) 683-5411	FOR COURT USE ONLY
ATTORNEY FOR (Name)			
Insert of Court Name of Judicial District and Branch Court if any UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA			
SHORT TITLE OF CASE BARNETT v OBAMA et al			Case Number: SACV0900082DOC(Anx)
1729098	(HEARING) Date	Time	Dept
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 PARTY SERVED: Thomas O'Brien, U.S Attorney

PERSON RECEIVING COPIES: Flabia De La Rosa

ADDRESS: 300 N Los Angeles St Ste 7516
 Los Angeles CA 90012

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b. DDS Legal Support
 2900 Bristol St
 Costa Mesa, Ca 92626

c. (714) 662-5555

8. I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Luis Osuna

7/23/2009

d. The fee for service was \$39.50

e. I am:

- (1) not a registered California process server:
- (3) X registered California process server:
 - (i) Employee
 - (i) Registration No: 434
 - (i) County: OC/LA

X



SIGNATURE

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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address) Orly Tailz, Esq 26302 La Paz Rd Ste 211 Mission Viejo CA 92691			TELEPHONE NO. (949) 683-5411	FOR COURT USE ONLY
ATTORNEY FOR (Name)				
Insert of Court Name of Judicial District and Branch Court if any UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA				
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Los Angeles CA 90012

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Costa Mesa, Ca 92626

c. (714) 662-5555

d. The fee for service was \$39.50

e. I am:

(1) not a registered California process server:

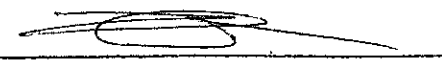
(3) X registered California process server:

(i) Employee

(i) Registration No: 434

(i) County: OC/LA

8. I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Luis Osuna

7/23/2009 X 

SIGNATURE

PROOF OF SERVICE

EXHIBIT 3

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address)			TELEPHONE NO.	FOR COURT USE ONLY
Orly Taitz, Esq 26302 La Paz Rd Ste 211			(949) 683-5411	
Mission Viejo	CA	92691		
ATTORNEY FOR (Name)				
Insert of Court Name of Judicial District and Branch Court if any				
UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA				
SHORT TITLE OF CASE				
BARNETT v OBAMA et al				
1729098	(HEARING) Date	Time	Dept	Case Number: SACV0900082DOC(Anx)
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			e. I am:	
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			(3) X registered California process server:	
			(i) Employee	
			(i) Registration No:	434
			(i) County: OC/LA	

b. DDS Legal Support
2900 Bristol St
Costa Mesa, Ca 92626

c. (714) 662-5555

8. I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Luis Osuna

7/23/2009

X 

SIGNATURE

PROOF OF SERVICE

EXHIBIT 3

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address) Orly Taitz, Esq 26302 La Paz Rd Ste 211 Mission Viejo CA 92691		TELEPHONE NO. (949) 683-5411	FOR COURT USE ONLY	
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Costa Mesa, Ca 92626

c. (714) 662-5555

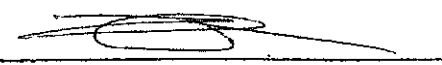
d. The fee for service was \$39.50

e. I am:

(1) not a registered California process server:
(3) X registered California process server:
(i) Employee
(j) Registration No: 434
(k) County: OC/LA

8. I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Luis Osuna

7/23/2009

X 
SIGNATURE

PROOF OF SERVICE

EXHIBIT 3

Dejute, David (USACAC)

From: Charles Lincoln [charles.lincoln@rocketmail.com]
Sent: Wednesday, July 15, 2009 10:37 AM
To: West, Roger (USACAC); Dejute, David (USACAC)
Cc: Dr. Orly Taitz
Subject: Can you arrange Waiver of Service of Summons
Attachments: First Amended Complaint Filed July 15 2009.pdf

Dear Mr. DeJute:

It was a pleasure meeting you on Monday.

Dr. Taitz has asked me whether you are willing to accept this letter as an informal notice of lawsuit and try to arrange a Waiver of Service of Summons with the Federal party Defendants (and the First Lady). Rule 4 suggests that there is a duty to save costs of service of summons and Dr. Taitz and I are headed out to Georgia today, and apparently the U.S. District Court Clerk's Office in Santa Ana did not open until 10:00 a.m. this morning, so we were unable to complete service. Obviously, I know you need a signed copy of the Complaint pursuant to Rule 11, and I can assure you that Dr. Taitz will be faxing you one today or tonight from Georgia at the absolute latest.



U. S. Department of Justice

*United States Attorney
Central District of California*

*David A. DeJute
Assistant United States Attorney
Telephone: (213) 894-2574
Facsimile: (213) 894-7819*

*Federal Building, Suite 7516
300 North Los Angeles Street
Los Angeles, California 90012*

July 28, 2009

Via Email and U.S. Mail

Charles Lincoln
Orly Taitz Law Offices
26302 La Paz, Suite 211
Mission Viejo, California 92691

Re: Keyes v. Obama, SACV 09-0082 DOC (ANx)

Dear Mr. Lincoln:

This letter responds to your email of July 15th requesting that we waive service of the summons for all defendants on the First Amended Complaint, which was electronically filed on that same day. We will do so *if* you properly file and serve that complaint on the U.S. Attorney's Office for the Central District of California.

Under the Local Rules of this District, an amended complaint may not be electronically filed. See General Order 08-02 § C.1. Instead, an amended complaint must be "filed, in duplicate, fees paid, and summons issued and served in the traditional manner rather than electronically." Id. The First Amended Complaint has therefore not been properly filed nor served with a summons, and we cannot accept it on behalf of anyone in its current form.

Moreover, Judge Carter has ordered Plaintiffs to properly serve the First Amended Complaint. See Order dated July 16, 2009. As we discussed at the hearing on July 15th, service is not effective until you have taken an amended complaint, properly filed and with a summons properly issued, to the service window of the U.S. Attorney's Office.

We are mindful that Judge Carter has expressed a strong desire to move beyond these nascent procedural issues. We are therefore prepared to accept service on behalf of each of the named defendants on the First Amended Complaint once it is properly filed and served on this

U.S. Attorney's Office. The time will then begin to run under Rule 4(i) to file a responsive pleading on behalf of each of the Federal Defendants to Plaintiffs' First Amended Complaint.

Please let me know if you have any questions.

Very truly yours,

THOMAS P. O'BRIEN

United States Attorney

/S/

DAVID A. DeJUTE

Assistant United States Attorney

EXHIBIT 5