

**DECLARATION OF GARY G. KREEP IN SUPPORT OF PLAINTIFFS' EX PARTE APPLICATION FOR ORDER VACATING VOLUNTARY DISMISSAL**

I, Gary G. Kreep, hereby declare as follows:

1. That I am the attorney for Plaintiffs Markham Robinson and Wiley S. Drake (hereinafter referred to as "PLAINTIFFS") in this case, that I am admitted to practice before all Courts of this State, and that, if called upon to do so, I could, and would, competently testify as follows:

2. That, on August 19, 2009, on behalf of PLAINTIFFS, I filed with this Court an application to file under seal PLAINTIFFS' Ex Parte Application for Order Vacating Voluntary Dismissal.

3. That the Ex Parte Application requested that the Court vacate the dismissal of PLAINTIFFS from the case, which was caused by Dr. Taitz's filing of a Notice of Voluntary Dismissal on behalf of PLAINTIFFS, on August 1, 2009, without their consent or knowledge.

4. That, on August 21, 2009, in an order issued by Judge David O. Carter, the Court denied PLAINTIFFS' request to file their Ex Parte Application under seal; the Court also declined to resolve, on an ex parte basis, PLAINTIFFS' application; and the Court scheduled a hearing on September 8, 2009, in order to resolve the issues relating to PLAINTIFFS' Ex Parte Application, Defendants' Notice of Failure by Plaintiffs to Properly Effect Service of Process, and Plaintiffs'

Motion for Review of Magistrate Judge Arthur Nakazato's August 6, 2009 Order Striking Filed Documents from the Record and Motion to Recuse Magistrate Judge Arthur Nakazato under 28 U.S.C. § 455(a).

5. That it is my understanding that this Court is now treating PLAINTIFFS' Ex Parte Motion as a Noticed Motion.

6. That, once reinstated as plaintiffs in this case, PLAINTIFFS plan to file an amended complaint herein.

7. That, since PLAINTIFFS wish to remain as plaintiffs in this case and plan to file an amended complaint, and since the Court will consider Defendants' Notice of Failure by Plaintiffs to Properly Effect Service of Process at the hearing scheduled for September 8, 2009, I am requesting, on behalf of PLAINTIFFS, that the Court not take any action relating to Defendants' Notice that would be detrimental to PLAINTIFFS' interest in this matter before PLAINTIFFS are reinstated as plaintiffs in this case and have the opportunity to file PLAINTIFFS' amended complaint.

8. That I know of no prejudice that will result to any party as a result of this request, as until August 1, 2009, PLAINTIFFS were parties herein.

9. This request is made in good faith and for the reasons set forth above and not for the purpose of any delay.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on August 26, 2009, at Ramona, California.

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GARY G. KREEP  
Attorney for Plaintiffs Markham Robinson and Wiley S. Drake