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5 Attorney FOR "DEFEND OUR FREEDOMS" FOUNDATION,
6 ORLY TAITZ, INC, "APPEALING DENTISTRY"

7 CHARLES LINCOLN,) CASE NO.: 8:10-CV-01573-AG
8 PLAINTIFF,) DEFENDANTS' ORLY TAITZ INC
9 VS.) AND APPEALING DENTISTRY
10 DAYLIGHT CHEMICAL, et al) NOTICE OF MOTION AND MOTION
11 DEFENDANT) FOR SANCTIONS
12) Date: March 21, 2011
13) Time: 10 AM
14) Hon Andrew Guilford
15) Courtroom 10D
16)

17 TO ALL PARTIES AND TO THEIR COUNSEL OF RECORD:
18 PLEASE TAKE NOTICE Defendants Orly Taitz, inc and
19 Appealing Dentistry (collectively "Defendants") are
20 filing this notice of motion and motion for sanctions
21 against Charles Lincoln, Philip J. Berg and Gary Kreep.
22 Accidentally the body of the motion did not get attached
23 in ECF and the Exhibit 1 got attached twice. The motion
24 is refiled with the body of the motion and 3 exhibits

25
26 **BACKGROUND OF THE MOTION**

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28 Orly Taitz, inc and "Appealing Dentistry" motion for sanctions against Lincoln, Berg,

1 Charles Lincoln, is the Plaintiff on this case, Philip
2 J. Berg is a Pennsylvania attorney (applied pro hac
3 vice to represent Lincoln, application was not approved
4 yet, however Berg already appeared at the 02.14.2011
5 hearing), attorney Gary Kreep, California attorney,
6 signed Berg's pro hac vice as a local California
7 counsel on the case.

8 **Argument**

9 This court has inherent power to sanction parties to an
10 action for fraud on the court, for submitting a written
11 motion or paper unsupported by existing law or by a
12 good faith argument for a change in existing law,
13 allegations that do not have, or are unlikely to have
14 after a reasonable investigation, evidentiary support
15 or denial unwarranted by the evidence and for conduct
16 designed to harass other parties. Mercury Air Group,
17 inc v. Mansour, 237 F. 3d, 542, 548 (5th Cir 2001)
18 O'Brien v Alexander, 101 F. 3d 1479, 1489 (2d Cir.
19 1996). Townsend v Holman Consulting Corp., 929 f 2d
20 1358, 1364-65 (0th cir 1990) While rule 11 sanctions
21 require 21 days notice, Defendants do not claim Rule
22 11, but rather ask the court to use its' inherent
23 powers to sanction the parties sua sponte. The reason
24 for not waiting further is a pattern of repeated
25 offensive behavior. Fries v Helsper, 146 F.3d 452, 458-
26 59 (7th Cir.1998).

27
28 Orly Taitz, inc and "Appealing Dentistry" motion for sanctions against Lincoln, Berg,

1 1. On Friday 11, 2011 Honorable Andrew Guilford issued
2 a tentative ruling in Lincoln v Daylight et al, where
3 he dismissed 12 out of 13 causes of action and allowed
4 only one cause of action to proceed.

5 2. The cause of action, that was not dismissed yet, was
6 Cause of action #12 Quantum Meruit. According to the
7 Plaintiff's own First Amended complaint this cause of
8 action had a total requested amount of \$47,000, which
9 is below \$75,000 required to sustain this whole
10 complaint in the Federal Court jurisdiction under 28
11 USC 1332 (a) and it was clear that the Defendants would
12 ask the court to dismiss the whole complaint, as this
13 remaining cause of action fails under 12b(1).

14 3. Shortly after the tentative ruling was issued, Orly
15 Taitz, attorney for the Defendants checked pacer and
16 suddenly found an application for Pro hac Vice to
17 represent Charles Lincoln filed by Pennsylvania
18 attorney Philip J. Berg and co-signed by the California
19 attorney Gary Kreep.

20 4. This was past 5pm and both attorneys representing
21 Daylight Chemical and Law Offices of Orly Taitz left
22 their offices for the weekend and could not be
23 consulted until Monday morning during Motion hearing.

24 5. In the middle of the night from Sunday to Monday
25 Taitz received the following e-mail from the plaintiff.
26 Exhibit 1 Email from Lincoln and attached report.

27
28 Orly Taitz, inc and "Appealing Dentistry" motion for sanctions against Lincoln, Berg,

1 6. The e-mail stated "Dear Dr. Taitz & Messrs. Becker,
2 Levine, Melo, Pallares, and Ross: Because counsel Gary
3 Krep has appeared for me I have substantially altered
4 the rule 26(f)Report and have prepared it to be
5 submitted with my counsel together as a "Plaintiff's
6 report" tomorrow. Charles Lincoln, III.

7 7. This report completely misstated most of the things
8 stated during the conference between the counsel. Most
9 telling was the fact that the amount requested in
10 damages due to Lincoln's employment was changed from
11 \$47,000 to \$100,000. This was done after Honorable
12 Andrew Guilford dismissed all other causes of action
13 and only a few hours prior to 10am motion hearing in
14 front of Hon Andrew Guilford on the Defendant's motion
15 to dismiss.

16 8. Taitz had to stay up all night long in order to
17 research this new document forwarded to her in the
18 middle of the night and to prepare for new allegations

19 9. Previously Plaintiff filed two ex parte motions,
20 where he did not give her notice and she had to stay up
21 all night preparing the response.

22 10. Aside from being an attorney, Taitz is a licensed
23 Dentist, doing business as Orly Taitz, inc DBA
24 Appealing Dentistry, and representing her dental
25 practice in this action.

26
27
28 Orly Taitz, inc and "Appealing Dentistry" motion for sanctions against Lincoln, Berg,

1 11. After the motion hearing Taitz had patients
2 scheduled from 12-6 and had to work without sleep and
3 experienced severe chest pains and severe headaches.

4 12. This is the third time the Plaintiff is engaged in
5 such ambush behavior with a clear purpose of
6 harassment, which affects her health and impacts her
7 dental practice.

8 13. The fact that the amount was changed from \$47,000
9 to \$100,000 and the fact that it was done shortly after
10 the court dismissed the rest of the allegations and
11 causes of action in this frivolous \$130 million legal
12 action shows desire to commit fraud on the court and
13 retain jurisdiction after it no longer existed.

14 14. The same document titled "Plaintiff's Alternative
15 Rule 26(f) Report contains numerous allegations and
16 insinuations, which become public domain and are
17 reprinted on the Internet and defame the Defendants.

18 17. For example, as part of the document page 7 under
19 "key document" (3) among documents requested it states
20 "...All communications between Orly Taitz & Yosef Taitz
21 and anyone in the Israeli or Chinese government or
22 Secret Service..." Taitz finds these allegations to be
23 not only outrageous but also ridiculous. Your Honor saw
24 Taitz and her husband in court. Taitz is 5'8",
25 European and light complexion. Her husband is 6'3",
26 European and light complexion, nowhere near being
27 Chinese. Without a shred of evidence Plaintiff inserts

28 Orly Taitz, inc and "Appealing Dentistry" motion for sanctions against Lincoln, Berg,

1 in his filings outrageous allegations and insinuations.
2 On 02.14.2011 Your Honor asked everyone present in
3 court whether they are familiar with Twombly. Taitz is
4 familiar with Twombly v Bell Atlantic and submits that
5 such outrageous insinuations and allegations not only
6 wouldn't stand under Twombly, they wouldn't stand under
7 standards of the American Psychiatric Association
8 either. While Lincoln is a disbarred attorney and one
9 does not expect high standards from him, Berg and Kreep
10 are licensed. They were under duty to do minimum
11 investigation prior to applying in pro hac vice to
12 represent Lincoln. (Berg currently has a Disciplinary
13 Board hearing in Pennsylvania, scheduled for
14 02.23.2011. While he might be no longer licensed after
15 that hearing, he is still licensed now.)

16 18 Additionally, your Honor might notice that they used
17 the stamp of "Lewis and Brisbois", which is affixed on
18 the left border of this form. Lewis and Brisbois is a
19 law firm employing Mr. Pallares and Becker, attorneys
20 for Law offices of Orly Taitz, and by affixing "Lewis
21 and Brisbois" stamp, they are trying to give legitimacy
22 to their allegations and are attempting to create and
23 illusion of acquiescence by the attorneys for law
24 offices of Orly Taitz to such allegations.

25 Attorneys Berg an Kreep previously made allegations
26 that prejudiced Judge Carter against Orly Taitz in a
27 different case. As this court knows, Lincoln is asking

28 Orly Taitz, inc and "Appealing Dentistry" motion for sanctions against Lincoln, Berg,

1 for payment, for services as paralegal fighting a
2 frivolous law suit filed by this very attorney Philip J
3 Berg, who applied to appear to represent Lincoln
4 against Taitz. Taitz does not know, if Berg and Lincoln
5 were working together prior to Lincoln's offer to help
6 her fight the law suit against Berg, however in a nut
7 shell Berg claimed that Taitz defamed him and his
8 paralegal, Lisa Liberi (Liberi happens to be a
9 convicted felon, just like Lincoln). Berg claimed that
10 he and Liberi were defamed, when Taitz published a
11 report by an investigator, showing Lisa Liberi's
12 criminal conviction in 2008 in CA of 10 felony counts
13 of forgery and theft. Berg claimed, that she is a
14 different Lisa Liberi, who resided in PA and was
15 defamed. When Taitz asked to see Liberi's PA drivers
16 license, Berg refused to show it claiming that Liberi
17 is afraid for her life because attorney Taitz tried to
18 hire a hit man to kill her and to kidnap children of
19 web master Lisa Ostella. A recent 12.23.2011 motion
20 ruling by presiding judge Eduardo Robreno in Liberi et
21 al v Taitz et al 09-1898 Eastern District of PA stated
22 that Berg, Liberi and Ostella were evasive and not
23 believable as witnesses and judge Robreno did not find
24 any value in those allegations. Taitz had to endure
25 nearly two years of such egregious defamatory
26 allegations and harassment by Berg. (the case is
27 currently on appeal, as the presiding judge erroneously

28 Orly Taitz, inc and "Appealing Dentistry" motion for sanctions against Lincoln, Berg,

1 assumed jurisdiction by the Federal court without the
2 Plaintiffs filing any documentary evidence showing
3 state citizenship of Lisa Liberi). Current action
4 involving Lincoln and Berg follows a two year history
5 and modus operandi of harassment, frivolous allegations
6 and fraudulent statements.

7 Lincoln has a history of filing frivolous actions in
8 Texas, where he used to reside and where he was
9 sanctioned \$60,500 in state court and \$150,000 in
10 Federal court and where he is prevented from filing any
11 more legal actions in either state or federal courts
12 until he pays his sanctions. Exhibit 2, 3

13 Exhibit 2 is a true and correct copy of the third party
14 defendants Judge Don Higginbotham and Judge John
15 McMaster asking Chief judge of the Western District of
16 TX Hon Walter Smith to sanction Charles Lincoln and
17 Daniel Simon for their continuous harassment of public
18 officials from the justice of the peace to a United
19 States Federal Judge. Civil Action # W-08-CA-010 US
20 District Court for the Western District of TX, Waco
21 Division.

22 Exhibit 3 is a true and correct copy of the order by
23 the Chief Judge of the Western District of TX, Hon.
24 Walter Smith, sanctioning Charles Lincoln and Daniel
25 Simon \$150,000 because of their pattern of harassing
26 litigation Civil Action # W-08-CA-010 US District Court
27 for the Western District of TX, Waco Division.

28 Orly Taitz, inc and "Appealing Dentistry" motion for sanctions against Lincoln, Berg,

1 16. Taitz and her husband have already incurred over
2 \$15,000 in legal bills in this case and lost time from
3 work, as well as suffered emotional distress.
4 Sanctions are proper in cases where a party engages in
5 harassment

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9 **CONCLUSION**

10 Defendants are asking this court to sanction Lincoln,
11 Berg and Krep for their egregious conduct in this
12 case.

13
14 Respectfully submitted

15 /s/Orly Taitz

16 Dr. Orly Taitz, ESQ

17 02.15.2011
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22 **FEDERAL COURT PROOF OF SERVICE**

23 I certify under penalty of perjury and under the laws
24 of CA that I served the Plaintiff and his counsel via
25 ECF and or mail on 02.15.2011

26 Dated this 02.15.2011
27 /s/Orly Taitz

28 Orly Taitz, inc and "Appealing Dentistry" motion for sanctions against Lincoln, Berg,

1 Dr. Orly Taitz, ESQ
2 29839 Santa Margarita Pkwy
3 Rancho Santa Margarita CA
4 92688

5 **Affidavit of Dr. Orly Taitz, ESQ**

6 I, Orly Taitz, am an attorney representing Appealing
7 Dentistry, Orly Taitz, inc and "Defend our freedoms"
8 foundation in Lincoln v Daylight et al. I am over 18
9 years old, do not suffer from any mental impairment,
10 have personal knowledge of the following facts and
11 attest and declare under the penalty of perjury and
12 under the laws of the state of California:

13 1. On Friday 11, 2011 Honorable Andrew Guilford issued
14 a tentative ruling in Lincoln v Daylight et al, where
15 he dismissed 12 out of 13 causes of action and allowed
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4 and co-signed by the California attorney Gary Krep to
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11 received the following e-mail and exhibit from the
12 plaintiff. Exhibit 1

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15 Krep has appeared for me I have substantially altered
16 the rule 26(f)Report and have prepared it to be
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11 from 12-6 and I had to work without sleep and
12 experienced severe chest pains and severe headaches.

13 12. This is the third time the Plaintiff is engaged in
14 such ambush behavior with a clear purpose of
15 harassment, which affects my health and impacts my
16 dental practice.

17 13. Exhibit 1 is a true and correct copy of the email
18 and attachment received by me at 12:26 at night on
19 Monday 02.14.2011

20 14. Exhibit 2 is a true and correct copy of the third
21 party defendants Judge Don Higginbotham and Judge John
22 McMaster asking Chief judge of the Western District of
23 TX Hon Walter Smith to sanction Charles Lincoln and
24 Daniel Simon for their continuous harassment of public
25 officials from the justice of the peace to a United
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5 Walter Smith, sanctioning Charles Lincoln and Daniel
6 Simon \$150,000 because of their pattern of harassing
7 litigation Civil Action # W-08-CA-010 US District Court
8 for the Western District of TX, Waco Division.

9 16. My husband and I have already incurred over \$15,000
10 in legal bills in this case and lost time from work, as
11 well as suffered emotional distress.

12 Affiant further says not

13 /s/ Orly Taitz

14 02.15.2011

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28 Orly Taitz, inc and "Appealing Dentistry" motion for sanctions against Lincoln, Berg,