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CLERK U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SANTA ANA, CALIF.

FILED

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15 **UNITED STATES DISTRICT COURT**  
16 **FOR THE CENTRAL DISTRICT OF CALIFORNIA,**  
17 **SOUTHERN DIVISION**

18 CHARLES EDWARD LINCOLN, III  
19 Plaintiff,  
20 vs.  
21 DAYLIGHT CHEMICAL INFOR-  
22 MATION SYSTEMS, INC., et al,  
23 Defendants.

24 CIVIL ACTION NUMBER:  
25 **8:10-CV-01573 AG (PLAx)**  
26 **Plaintiff's Memorandum of Points**  
27 **and Authorities in support of his**  
28 **Motion to Strike**  
Date of Hearing: March 21, 2011  
Time of Hearing: 10:00 a.m.  
Location: Courtroom 10D

29 **PLAINTIFF'S MEMORANDUM OF POINTS and AUTHORITES IN**  
30 **SUPPORT OF HIS MOTION TO STRIKE**

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**I. INTRODUCTION**

1. Plaintiff, Charles Edward Lincoln, III [hereinafter “Plaintiff”] filed his Complaint on October 15, 2010 under the Racketeer Influenced and Corrupt Organizations Act [hereinafter “RICO”] for damages against several Defendants, including Defendants Appealing Dentistry, Orly Taitz, Inc., and Defend our Freedoms Foundations, Inc. [hereinafter at times “Defendant Taitz”]. Plaintiff filed his First Amended Complaint under RICO on November 5, 2010.

2. Thereafter, Defendants Yosef Taitz and Daylight Chemical Information Systems, Inc. filed a Motion to Dismiss Plaintiff’s Complaint on December 13, 2010 and an Amendment thereto on December 16, 2010.

3. Defendants Orly Taitz and the Law Offices of Orly Taitz filed a Motion to join Defendants Yosef Taitz and Daylight Chemical Information Systems, Inc.’s Motion to Dismiss on December 15, 2010. And, Defendants Appealing Dentistry, Orly Taitz, Inc. and Defend our Freedoms Foundations, Inc. followed suit filing a Motion to Join the Amendment on December 27, 2010.

4. On January 7, 2011, Defendants Orly Taitz and the Law Offices of Orly Taitz’s filed their first Motion to Strike Plaintiff’s First (1<sup>st</sup>) Claim for Relief.

5. On January 9, 2011, Defendant Taitz filed her Motion to Join Defendants Orly Taitz and Law Offices of Orly Taitz Motion to Strike and Request

1 for Judicial Notice, Docket Entry No. ["Dkt No."] 24 and Request for Judicial  
2 Notice on January 15, 2011 appearing as Dkt. No. 26.

3  
4 6. Plaintiff filed an Ex Parte Motion to shorten time for his original  
5 Motion to Strike to be heard. In response thereto, Defendant Taitz filed an  
6 Opposition on January 27, 2011, Dkt. No. 30. Plaintiff's Motion was denied.

7  
8 7. Defendant Taitz filed a Notice of Motion and Motion to Strike, Dkt.  
9 No. 38 on January 31, 2011 and attached as Exhibit "1" [Dkt. No. 38-1] the same  
10 January 27, 2011 filing appearing as Dkt. No. 30.

11  
12 8. A hearing took place on Monday, February 14, 2011 regarding the  
13 Defendants, Daylight Chemical and Yosef Taitz, Motions, which were joined by  
14 the rest of the Defendants, to Dismiss pursuant to Federal Rules of Civil Procedure  
15 ["*Fed. R. Civ. P.*"] 12(b)(1) and 12(b)(6) as well as Defendants Orly Taitz and Law  
16 Offices of Orly Taitz, also joined by Defendants Appealing Dentistry, Defend our  
17 Freedoms Foundations, Inc., and Orly Taitz, Inc., Motion to Strike Plaintiff's First  
18 Cause of Action for Malicious Prosecution. The Court granted in part and denied  
19 in part the Defendants Motion to Dismiss and Denied as Moot the other  
20 Defendants Motion to Strike. The Court gave Plaintiff thirty [30] days to amend  
21 his complaint.

22  
23 9. Directly after the hearing, on February 15, 2011, Defendant Taitz filed  
24 a document entitled Notice of Motion and First Motion for Sanctions, Dkt. No. 42.  
25  
26  
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28



1 However, Dkt No. 42 does **not** contain any type of Motion, but instead a bunch of  
2 unauthenticated documents.

3  
4 10. Also on February 15, 2011, Defendant Taitz filed a "Brief", Dkt No.  
5 43, which does **not** support any type of Motion for Sanctions, with seven [7]  
6 Exhibits which are unauthenticated and do **not** relate to the within Case. The  
7 document itself is entitled an Opposition to Philip J. Berg, Esquire's *Pro Hac Vice*  
8 application.

9  
10 11. Defendant Taitz continued her frivolous filings on February 16, 2011,  
11 filing another document entitled Notice of Motion and First Motion for Sanctions,  
12 with three [3] unauthenticated Exhibits, Dkt. No. 46, without a Brief, which again  
13 is completely improper and only filed in attempts to prejudice this Court against  
14 Plaintiff, his attorney, Philip J. Berg, Esq. and a party completely unrelated to the  
15 within action, Lisa Liberi.

16  
17 12. As outlined herein, there are many problems with Defendant Taitz's  
18 filings appearing as Dkt No.'s 24, 26, 30, 38-1, 42, 43 and 46.

19  
20 13. As better detailed below, Defendant Taitz's filing appearing as Docket  
21 Entry No. 24, 26, 30, 38, 42, 43, and 46 do **not** comply with the Federal Rules of  
22 Civil Procedure ("Fed. R. Civ. P.") 7; Rule 11; and this Court's Local Rules  
23 ("L.R.") 7-3, 7-4, 7-5(a); 7-6; and 11; and therefore must **not** be considered by the  
24 Court, *L.R.* 7-12.

1           14. Moreover, Defendant Taitz's Motions and filings appearing as Dkt  
2 No.'s 24, 26, 30, 38, 38-1, 42, 43, and 46 as well as the attachments and Exhibits  
3 are unauthenticated in violation of Federal Rules of Evidence [*Fed. R. Evid.*] 901,  
4 902 and 1005; are irrelevant in violation of *Fed. R. Evid.* 401 and 402; are hearsay,  
5 double and triple hearsay statements and documents in violation of *Fed. R. Evid.*  
6 801(c) and 805 and therefore are inadmissible pursuant to *Fed. R. Evid.* 802; and  
7 contain information which may be found to be relevant, however, must be  
8 excluded as it is probative; and is outweighed by the fact it creates unfair prejudice  
9 to the Plaintiff; it confuses the issues before this Court; is a waste of time; and was  
10 a needless presentation and therefore must be excluded pursuant to *Fed. R. Evid.*  
11 403.

12           15. Defendant Taitz's Motions and filings appearing as Dkt No.'s 24, 26,  
13 30, 38, 38-1, 42, 43, 46 all attachments and Exhibits thereto are an insufficient  
14 defense, irrelevant, redundant, immaterial, impertinent, and are scandalous matter  
15 and therefore must be stricken pursuant Fed. R. Civ. P. 12(f).

16           16. Even if the Court were to find any information contained in Dkt No.'s  
17 24, 26, 30, 38, 38-1, 42, 43, and 46 relevant, which is highly doubtful, it must be  
18 excluded as it is probative, and is outweighed by the fact it creates unfair prejudice  
19 to the Plaintiff, it confuses the issues before this Court, is a waste of time, and was  
20

1 a needless presentation and therefore must be excluded pursuant to *Fed. R. Evid.*  
2 403.

3  
4 17. As explained in further detail below, it is extremely important for this  
5 Court to note, Defendant Taitz's in her filings of:

6 A. January 9, 2011, Dkt No. 24 at ¶3, p. 5, ll. 18-28 and ¶3, p. 6, ll.  
7 1-6 and Exhibits "2" and "3";

8 B. January 27, 2011, Dkt No. 30 at p. 8, ll. 12-22; pg. 9, ¶7, ll. 9-28;  
9 p. 10 ll. 1-12 and 20-27; p. 11, ¶8, ll. 1-28; p. 12, ll. 1-14; p. 13,  
10 ¶3, ll. 16-21, ¶4, ll. 22-25 and Exhibits "1", "2" and "3";

11 C. January 31, 2011, Exhibit "1" (Dkt. No. 38-1) attached to Dkt No.  
12 38 (Dkt. No. 38 Exhibit "1" is identical to Defendants January 27,  
13 2011 filing appearing as Dkt. No. 30);

14 D. February 15, 2011, Dkt. No. 43 at ¶ 3 on p. 8, ¶ 4 on pp. 8-11; ¶¶  
15 2-6 on p. 16<sup>1</sup>; and Exhibits "2", "3", "4", "5" and "6"; and

16 E. February 16, 2011, Dkt. No. 46 at ¶18, ll. 7-27 and p. 8, ll. 1-6.

17  
18 pertain to Lisa Liberi and Lisa Ostella, parties **not** associated with the case herein.

19 Lisa Liberi and Lisa Ostella are currently suing Orly Taitz, Defendant herein and  
20 counsel for Defendants Appealing Dentistry, Orly Taitz, Inc. and Defend our  
21 Freedoms Foundations, Inc. See Liberi, et al v. Taitz, et al, U.S. District Court,  
22 Eastern District of Pennsylvania, Case No. 09-cv-01898. Defendant Taitz has  
23 misstated and fabricated the facts as to what the Liberi, et al case is about; contents  
24  
25

26  
27 <sup>1</sup> Defendant Orly Taitz failed to use pleading paper in violation of this Court's *L.R.*  
28 11-3.2 and therefore Plaintiff is unable to refer to line numbers.

1 of documents filed in the case; statements by the parties in the case; and findings  
2 and rulings by the Court in the case.

3  
4 18. This is important because in the case of Liberi, et al v. Taitz, et al, the  
5 Judge issued an Order Severing and Transferring the case against Orly Taitz to the  
6 U.S. District Court, Central District of California, Southern Division, this very  
7 Court. It appears Orly Taitz is attempting to Obstruct Justice by filing the hearsay  
8 statements and hearsay Exhibits supposedly pertaining to Lisa Liberi and Lisa  
9 Ostella, parties completely unrelated to the within action, for **no** other purpose then  
10 to Prejudice and Bias the Court and the Judges within this Court against the  
11 Plaintiffs in the matter of Liberi, et al v. Taitz, et al prior to this Court receiving the  
12 case from Pennsylvania. This is **not** the first time Orly Taitz has attempted to  
13 Obstruct Justice with this Courthouse in the matter of Liberi, et al v. Taitz, et al.  
14  
15  
16  
17 See **EXHIBIT "A"**<sup>2</sup>.

18  
19 19. For the reasons outlined herein, Defendant Taitz's filings appearing as  
20 Dkt. No.'s 24, 26, 30, 38, 41, 43 and 46 must be stricken.

21  
22 //  
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27 <sup>2</sup> See Judge David O. Carter's Oct. 29, 2009 Opinion, ¶ F "Conduct of Plaintiffs  
28 Counsel" in Barnett v. Obama, 2009 U.S. Dist. LEXIS 101206, 55-56 (C.D. Cal. Oct. 29, 2009).

1           **II. DEFENDANT TAITZ'S FILINGS APPEARING AS DKT.**  
2           **NO.'S 24, 26, 30, 38, 38-1, 42, 43, AND 46 MEET ALL THE**  
3           **REQUIREMENTS TO BE STRICKEN FROM THE RECORD**  
4           **PURSUANT TO FED. R. CIV. P. 12(f)**

5           20. Plaintiff incorporates by reference the preceding paragraphs as if fully  
6 set forth herewith.

7  
8           21. As this Court is aware, *Fed. R. Civ. P. 12(f)* is a tool granting a party  
9 the right to strike any "insufficient defense or any redundant, immaterial,  
10 impertinent, or scandalous matter." "Immaterial" refers to a matter that has **no**  
11 bearing on the controversy before the court. *Fantasy, Inc. v. Fogerty*, 984 F.2d  
12 1524, 1527 (9th Cir. 1993)(reversed on other grounds in *Fogerty v. Fantasy, Inc.*,  
13 510 U.S. 517, 534-535 (1994). "Impertinent" matters include allegations that  
14 are **not** responsive or relevant to the issues involved in the action. *Id.*

15  
16  
17           22. This Court has the inherent power, under Rule 12(f), to strike "an  
18 insufficient defense or any redundant, immaterial, impertinent, or scandalous  
19 matter." The purpose of a motion to strike is to "avoid the expenditure of time and  
20 money that must arise from litigating spurious issues by dispensing with those  
21 issues prior to trial." *Sidney-Vinsein v. A.H. Robins Co.*, 697 F.2d 880, 885 (9th  
22 Cir. 1983). "Immaterial matter is that which has **no** essential or important  
23 relationship to the claim for relief or the defenses being plead." *Whittlestone, Inc.*  
24 *v. Handi-Craft Co.*, 618 F.3d 970, 974 (9th Cir. 2010) (internal quotations and  
25  
26  
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28

1 citation omitted). “Impertinent matter consists of statements that do **not** pertain,  
2 and are **not** necessary, to the issues in question.” Id. (internal quotations and  
3 citations omitted).  
4

5 23. As outlined herein and in Plaintiff’s Motion, Defendant Taitz’s  
6 filings, appearing as Dkt. No.’s 24, 26, 30, 38, 38-1, 42, 43, and 46 the Defendants  
7 failed to comply with *Fed. R. Civ. P. 7* and 11 and this Court’s *L.R.’s*, 7-3, 7-5(a)  
8 and 7-6; and therefore may **not** be considered pursuant to this Court’s Local Rule  
9 7-12.  
10  
11

12 24. Defendant Taitz’s Motions and filings, including attachments and  
13 Exhibits, appearing as Dkt No.’s. 24 beginning at p. 2, ll. 12-28, ¶¶ 1-2 and pp. 3-  
14 9, ll. 1-28, ¶¶ 2-5, Conclusion on pp. 8-9 and Exhibits “1” through “5”; 26; 30; 38;  
15 38-1; 42; 43; and 46, as outlined herein, contain irrelevant statements and  
16 documents in violation of *Fed. R. Evid. 401* and 402; contains information which  
17 may be found to be relevant, however, must be excluded as it is probative, and is  
18 outweighed by the fact it creates unfair prejudice to the Plaintiff, it confuses the  
19 issues before this Court, is a waste of time, and was a needless presentation and  
20 therefore must be excluded pursuant to *Fed. R. Evid. 403*; contains hearsay, double  
21 and triple hearsay statements and documents in violation of *Fed. R. Evid. 801(c)*  
22 and 805 and therefore are inadmissible pursuant to *Fed. R. Evid. 802*; and contain  
23  
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1 attachments which are unauthenticated in violation of *Fed. R. Evid.* 901, 902 and  
2 1005.

3  
4 25. Furthermore, Defendant Taitz's filings appearing as Dkt. No.'s 24,  
5 beginning with p. 2, ll. 12-28, ¶¶ 1-2 and pp. 3-9, ll. 1-28, ¶¶ 2-5, Conclusion on  
6 pp. 8-9 and Exhibits "1" through "5"; 26; 30; 38-1; 42; 43; and 46 contain an  
7 insufficient defense, and are irrelevant, redundant, immaterial, impertinent, and are  
8 scandalous matter and therefore must be stricken pursuant to Federal Rules of Civil  
9 Procedure 12(f).  
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12 26. As previously stated, Defendant Taitz's filing, Docket Entry No.'s:

13 A. January 9, 2011, Dkt No. 24 at ¶3, p. 5, ll. 18-28 and ¶3, p. 6, ll.  
14 1-6 and Exhibits "2" and "3";

15 B. January 27, 2011, Dkt No. 30 at p. 8, ll. 12-22; pg. 9, ¶7, ll. 9-28;  
16 p. 10 ll. 1-12 and 20-27; p. 11, ¶8, ll. 1-28; p. 12, ll. 1-14; p. 13,  
17 ¶3, ll. 16-21, ¶4, ll. 22-25 and Exhibits "1", "2" and "3";

18 C. January 31, 2011, Exhibit "1" (Dkt. No. 38-1) attached to Dkt No.  
19 38 (Dkt. No. 38 Exhibit "1" is identical to Defendants January 27,  
20 2011 filing appearing as Dkt. No. 30);

21 D. February 15, 2011, Dkt. No. 43 at ¶ 3 on p. 8, ¶ 4 on pp. 8-11; ¶¶  
22 2-6 on p. 16; and Exhibits "2", "3", "4", "5" and "6"; and

23 E. February 16, 2011, Dkt. No. 46 at ¶18, ll. 7-27 and p. 8, ll. 1-6.

24  
25 pertain to Lisa Liberi and Lisa Ostella, parties completely unrelated to the within  
26 action and a case, which is being transferred from the U.S. District Court, Eastern  
27 District of Pennsylvania to this very Court. Defendant Orly Taitz is attempting to  
28

1 obstruct justice by attempting to Prejudice and Bias the Court and the Judges  
2 within this Court against the case and Plaintiffs in the case of Liberi, et al v. Taitz,  
3  
4 et al prior to this Court receiving the case from Pennsylvania.

5 27. For the reasons stated herein, Defendant Taitz's filings appearing as  
6 Dkt. No.'s 24, 26, 3-0, 38, 38-1, 42, 43, and 46 must be stricken.  
7

8  
9 **A. Defendant Taitz filings appearing as Dkt. No.'s 24, 30, 42, 43, and**  
10 **46 fail to comply with the Fed. R. Civ. P. 7, 11 and this Court's**  
11 **L.R.'s, 7-3, 7-5(a), 7-6, 11-3.9 and 11-3.9.3, 11-8 as well as others**  
12 **and therefore may not be considered pursuant to this Court's**  
13 **L.R. 7-12.**

14 28. Plaintiff incorporates by reference the preceding paragraphs as if fully  
15 set forth herewith.

16 29. Defendant Taitz had a duty to meet and confer with Plaintiff and/or  
17 Plaintiff's counsel prior to filing their Motions appearing as Dkt. No.'s 24, 42, 43,  
18 and as required by this Court's L.R. 7-3. Despite this duty, Defendants disregarded  
19 this Court's rules and refused to meet and confer with Plaintiff.  
20

21 30. In addition, Defendant Taitz failed to include a Brief and/or  
22 Memorandum of Points and Authorities relied upon in their filings appearing as  
23 Dkt. No.'s 24, 30, 38, 42, 43 and 46 in violation of Fed. R. Civ. P. 7 and this  
24 Court's L.R. 7-5(a).  
25  
26  
27  
28



1           31. Further, Defendant Taitz failed to include a Declaration or Affidavit  
2 supporting their contention and/or relief sought in their filing as required by this  
3 Court's L.R. 7-6.

4  
5           32. Defendant Taitz's filings appearing as Dkt. No.'s 24, 26, 30, 38, 43,  
6 and 46 contain false and misleading statements in violation of *Fed. R. Civ. P.*  
7 11(b).

8  
9           33. Defendant Taitz has failed to properly cite legal citations in violations  
10 of this Court's *L.R.* 11-3.9 and 11-3.9.3 pertaining to Citations.

11  
12           34. Plaintiff has now been forced to expend Attorney fees for assistance  
13 by Attorney Philip J. Berg, Esquire to properly address the issues herein and file  
14 the required Motion to Strike. Moreover, Defendants filings are frivolous and  
15 were filed for improper purposes; have wasted judicial recourses; and increased the  
16 cost of litigation for the Plaintiff. For this reason alone, Defendants filings  
17 appearing as Dkt. No.'s 24, 26, 30, 42, 43, and 46 must **not** be considered by this  
18 Court. *See* this Court's *L.R.* 7-12.

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22           35. For the reasons stated herein, Plaintiff's Motion must be Granted.

23 //  
24 //  
25 //  
26 //  
27 //  
28 //

1           **B. Defendant Taitz Statements and Exhibits in her filings**  
2           **appearing as Dkt. No.'s 24, 26, 30, 38, 38-1, 42, 43, and 46 are**  
3           **irrelevant to the instant proceedings in violation of *Fed. R. Evid.***  
4           **401, 402 and/or are unduly prejudicial, confusing, and misleading**  
5           **in violation of *Fed. R. Evid.* 403, and therefore must be stricken.**

6           36. Plaintiff incorporates by reference the preceding paragraphs as if fully  
7 set forth herewith.

8           37. *Fed. R. Evid.* 401 define "Relevant Evidence" as evidence "having  
9 any tendency to make the existence of any fact that is of consequence to the  
10 determination of the action more probable or less probable than it would be  
11 without the evidence." *Fed. R. Evid.* 402 states in pertinent part, "Evidence which  
12 is **not** relevant is **not** admissible."

13           38. Defendant Taitz in her filing appearing as Dkt. No. 24 at p. 5, ll. 4-  
14 17, Exhibit "2"; Dkt. No. 26; Dkt. No. 30 at p. 6, ll. 24-28; p. 7, ll. 1-7; p. 7, ¶2, ll.  
15 17-28; p. 8, ¶2, ll. 1-6, ¶3, ll. 7-10, ¶5, ll. 20-27; p. 9, ¶5, ll. 1-8; p. 10, ¶5, ll. 8-27;  
16 p. 11, ¶8, ll. 1-28; p. 12, ¶8, ll. 1-14 and Exhibit "2"; Dkt. No.'s 38 in its entirety;  
17 Dkt. 42, 43 and 46 in their entirety attack Philip J. Berg, Esquire, the attorney who  
18 agreed to enter his appearance and represent the Plaintiff. The statements made in  
19 these filings are hearsay, double and triple hearsay, speculative, legal conclusions,  
20 extremely prejudicial, **not** fully accurate, contain unauthenticated attachments and  
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1 Exhibits, and are completely irrelevant to the within proceedings.<sup>3</sup> All of which is  
2 in violation of *Fed. R. Evid.* 401 and 402. Mr. Berg is an Attorney in “Good  
3 Standing” with the Pennsylvania Supreme Court. *See EXHIBIT “B”*.

4  
5 39. Furthermore, to allow this irrelevant information would be unduly  
6 prejudicial, confusing, and misleading in violation of *Fed. R. Evid.* 403. Therefore,  
7 the statements in Defendant Taitz’s Motion, Docket No. 24 at p. 5, ll. 4-17 and  
8 Exhibit “2” must be stricken. *See Fed. R. Evid.* 401, 402 and 403; and *Gribben v.*  
9 *United Parcel Service, Inc.*, 528 F.3d 1166 (9<sup>th</sup> Cir. 2008); 2008 U.S. App. LEXIS  
10 12692 (9<sup>th</sup> Cir. 2008).

11  
12  
13 40. The filings by Defendant Taitz outlined as follows:

- 14  
15 A. January 9, 2011, Dkt No. 24 at ¶3, p. 5, ll. 18-28 and ¶3, p. 6, ll.  
16 1-6 and Exhibits “2” and “3”;
- 17 B. January 27, 2011, Dkt No. 30 at p. 8, ll. 12-22; pg. 9, ¶7, ll. 9-28;  
18 p. 10 ll. 1-12 and 20-27; p. 11, ¶8, ll. 1-28; p. 12, ll. 1-14; p. 13,  
19 ¶3, ll. 16-21, ¶4, ll. 22-25 and Exhibits “1”, “2” and “3”;
- 20 C. January 31, 2011, Exhibit “1” (Dkt. No. 38-1) attached to Dkt No.  
21 38 (Dkt. No. 38 Exhibit “1” is identical to Defendants January 27,  
22 2011 filing appearing as Dkt. No. 30);

23  
24 <sup>3</sup> It should be noted by the Court however, Defendant Orly Taitz was recently sanctioned  
25 by Judge Clay D. Land for these same types of inappropriate filings and behaviors. *See*  
26 *Rhodes v. MacDonald*, 670 F. Supp. 2d 1363, 2009 U.S. Dist. LEXIS 95065 (M.D. Ga.,  
27 2009); *aff’d* in *Rhodes v. MacDonald*, 368 Fed. Appx. 949, 2010 U.S. App. LEXIS 5340  
28 (11th Cir. Ga., 2010); *Cert denied* in *Taitz v. McDonald*, 2011 U.S. LEXIS 491, \*;178 L.  
Ed. 2d 751; 79 U.S.L.W. 3399 (2011) and according to a phone call received by Plaintiff  
from an Investigator at the State Bar of California, seeking him to be a witness, Orly  
Taitz is currently under investigation with the State Bar of California.

1 D. February 15, 2011, Dkt. No. 43 at ¶ 3 on p. 8, ¶ 4 on pp. 8-11; ¶¶  
2 2-6 on p. 16; and Exhibits “2”, “3”, “4”, “5” and “6”; and

3 E. February 16, 2011, Dkt. No. 46 at ¶18, ll. 7-27 and p. 8, ll. 1-6.  
4

5 are misquoted and misstated hearsay statements regarding parties and a case  
6 completely unassociated, unrelated, and irrelevant to the case herein and therefore,  
7  
8 must be stricken. *See Fed. R. Evid.* 401, 402 and 403.

9 41. Defendant Taitz in her filings, Dkt. No.’s 24, 26, 30, 38, 43, and 46  
10 further proceed to file hearsay documents and statements, which are completely  
11 irrelevant and must be stricken. Even if this Court were to find any portion  
12 therewith relevant, the statements are unduly prejudicial, confusing, and  
13 misleading in violation of *Fed. R. Evid.* 403 and must be stricken.  
14  
15

16 42. For the reasons stated herein, Defendant Taitz filings, Dkt No.’s 24,  
17 26, 30, 38, 38-1, 42, 43, and 46 including all Exhibits thereto, must be stricken. *See*  
18 *Fed. R. Evid.* 401, 402, 403 and *Gribben v. United Parcel Service, Inc.*, 528 F.3d  
19 1166 (9<sup>th</sup> Cir. 2008); 2008 U.S. App. LEXIS 12692 (9<sup>th</sup> Cir. 2008).  
20  
21

22 **C. Defendant Taitz filings appearing as Dkt. No’s 24, 26, 30, 38, 38-1,**  
23 **42, 43, and 46 are packed with hearsay, double and triple hearsay**  
24 **statements and documents in violation of *Fed. R. Evid.* 801(c), 805**  
25 **and are inadmissible pursuant to *Fed. R. Evid.* 802; and therefore**  
26 **must be stricken.**

27 43. Plaintiff incorporates by reference the preceding paragraphs as if fully  
28 set forth herewith.

1           44. Hearsay is defined in the *Federal Rules of Evidence*, 801(c) as “a  
2 statement, other than one made by the declarant while testifying at the trial or  
3 hearing, offered in evidence to prove the truth of the matter asserted.” *Fed. R. Evid.*  
4 802 states, “Hearsay is **not** admissible except as provided by these rules or by other  
5 rules prescribed by the Supreme Court pursuant to statutory authority or by Act of  
6 Congress.” And, *Fed. R. Evid.* 805 is the Hearsay within Hearsay rule, none of the  
7 exceptions apply to the Defendants filings. See *Bourjaily v. U.S.*, 483 U.S. 171,  
8 175, 107 S. Ct. 2775, 97 L. Ed. 2d 144 (1987).

9  
10  
11           45. Defendant Taitz filings appearing as Dkt. No.’s 24; 26; 30; 38; 38-1;  
12 42; 43; and 46 including the attachments and Exhibits are nothing more than  
13 hearsay, double and triple hearsay statements. None of which fall under any of the  
14 exceptions outlined in the *Fed. R. Evid.* Therefore, the statements, attachments and  
15 Exhibits are inadmissible hearsay and must be stricken. See *Fed. R. Evid.* 801(c),  
16 802 and 805. See also *United States v. Bonds*, 608 F.3d 495 (9<sup>th</sup> Cir. 2010); 2010  
17 U.S. App. LEXIS 11934 (9<sup>th</sup> Cir. 2010).

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21  
22           **D. Defendant Taitz filings appearing as Docket Entry No.’s 24, 26,**  
23 **30, 38, 42, 43, and 46 contain Exhibits which are unauthenticated**  
24 **documents in violation of the *Fed. R. Evid.* 901, 902 and 1005**

25  
26           46. Plaintiff incorporates by reference the preceding paragraphs as if fully  
27 set forth herewith.

1           47. All documents filed with a Court as Evidence are required to be  
2 authenticated. *See Fed. R. Evid.* 901 and 1005. Authenticity of evidence, in the  
3 broad sense of the word, is fundamental to litigation and is one of the most basic  
4 functions. There are several ways outlined in the *Fed. R. Evid.* regarding the  
5 authentication of evidence, none of which Defendants complied with. In fact, one  
6 way to authenticate evidence is “self-authentication”. However, self-  
7 authentication pursuant to *Fed. R. Evid.* 902 require extrinsic authenticity.  
8 “Extrinsic evidence of authenticity is a condition precedent to admissibility”, *Fed.*  
9 *R. Evid.* 902.

13           48. As the Ninth Circuit has held, “The authentication of a document  
14 requires 'evidence sufficient to support a finding that the matter in question is what  
15 its proponent claims.’” *Id.* (quoting *Fed. R. Evid.* 901(a)). “A document  
16 *authenticated through personal knowledge* must be attached to an Affidavit, and  
17 the affiant must be a competent “witness who wrote [the document], signed it,  
18 used it, or saw others do so.”, *Orr v. Bank of Am., NT & SA*, 285 F.3d 764, 773  
19 (9th Cir. 2002) *Id.* at 773-74 & n.8 (quoting *Fed. R. Evid.* 901(b)(1)).

23           49. In Dkt. No. 24, Defendant Taitz filed Exhibits “1” through “5” in  
24 their Additional Information contained in their Motion to join, which are  
25 unauthenticated, hearsay, irrelevant, redundant, immaterial, impertinent, and  
26 scandalous matter.  
27  
28

1           50.     Exhibit “1” is purported to be a print-out of cases involving the  
2 within Plaintiff. However, Plaintiff is unsure as to where this document came from  
3 and the document has clearly **not** been authenticated.

4  
5           51.     Exhibit “2” Plaintiff is unsure what the document is, it appears to be  
6 part of a writing or article taken from some unknown place. Exhibit “2” is clearly  
7 not authenticated. Further, Exhibit “2” is immaterial, irrelevant, redundant, and  
8 scandalous matter.  
9

10  
11           52.     Exhibit “3” is supposedly a “mug” shot and criminal record of Lisa  
12 Liberi, a party unrelated to the within action. However, Exhibit “3” is **not** certified  
13 and does **not** show or allude to where these documents came from. Therefore,  
14 Exhibit “3” is unauthenticated and is immaterial, irrelevant, redundant, and  
15 scandalous matter. Moreover, Exhibit “3” is being used to Prejudice and Bias this  
16 Court against Lisa Liberi, a Plaintiff in another case being transferred to this Court.  
17

18  
19           53.     Exhibit “4” is purported to be a “Candidate Intention of Notice”  
20 form, which is **not** certified and is unauthenticated. Further, Defendant Taitz  
21 established in her filing that Plaintiff was **not** a resident of California as a result of  
22 being disqualified and/or rejected as a California Candidate because Plaintiff was  
23 unable to establish and/or meet the criteria required to be a Resident in the State of  
24 California and therefore qualify as a California Candidate.  
25  
26  
27  
28

1           54.     Exhibit “5” is purported to be a Docket Statement in the case of  
2     Lincoln v. Freiman, Case No. 8:08-cv-00696 JDW (EAJ), which is extremely hard  
3  
4     to read. Exhibit “5” is **not** certified, it is **not** authenticated and furthermore is  
5     irrelevant to the within action. Exhibit “5” is immaterial, irrelevant, redundant,  
6  
7     and scandalous matter.

8           55.     Defendant Taitz also attached a purported case print-out requesting  
9     this Court to take Judicial Notice of it. *See* Dkt No. 26. This document is **not**  
10    certified, and is **not** authenticated. Furthermore, the document attached to  
11  
12    Defendant Taitz’s Request for Judicial Notice is a hearsay document, and is  
13  
14    immaterial, irrelevant, redundant, and scandalous material.

15           56.     Dkt. No. 30 filed by Defendant Taitz contain four [4] Exhibits which  
16    are unauthenticated, hearsay, and irrelevant to the within case. Exhibit “1” is  
17  
18    purported to be a letter from San Bernardino County District Attorney’s Office  
19    supposedly related to a party who has nothing to do with the within case; Exhibit  
20  
21    “2” is purported to be a transcript in another Case outside of this Court, which is  
22    unauthenticated and is irrelevant to the within action; Exhibit “3” is purported to be  
23    a Memorandum of a Judge in another case outside of this Court and Case, which is  
24    unauthenticated and irrelevant to the within action; and Exhibit “4” is purported to  
25  
26    be an Affidavit of an Attorney in another case, outside of this Court’s jurisdiction  
27  
28    which is unauthenticated and irrelevant to the within action.



1           57.     Dkt. No. 38 filed by Defendant Taitz on January 31, 2011 contains  
2 one [1] Exhibit which is purported to be Defendant Taitz January 27, 2011 filing,  
3  
4 Dkt. No. 30, and therefore all Exhibits contained therein, as explained above, are  
5 unauthenticated and are irrelevant to the within action.

6           58.     Dkt. No. 42 filed by Defendant Taitz on February 15, 2011 are a  
7  
8 bunch of unauthenticated documents, which are completely irrelevant to the within  
9 action.

10           59.     Dkt. No. 43 filed by Defendant Taitz on February 15, 2011, contain  
11  
12 seven [7] Exhibits, each of which are repeated filings. All Exhibits, "1" through  
13  
14 "7" are unauthenticated documents that are completely irrelevant to the within  
15 action.

16           60.     Dkt. No. 46 filed by Defendant Taitz on February 16, 2011 contain  
17  
18 three [3] Exhibits, which are again repeated filings. All three [3] Exhibits are  
19 unauthenticated and irrelevant to the within action.

20           61.     As can be seen, all attachments and Exhibits filed in Dkt. No.'s 24,  
21  
22 26, 30, 38, 38-1, 42, 43, and 46 filed by Defendant Taitz, are unauthenticated and  
23 in violation of the *Fed. R. Evid.* 901, 902 and 1005. In addition, the documents are  
24 irrelevant in violation of *Fed. R. Evid.*, 401 and 402. See also *Orr v. Bank of Am.,*  
25 *NT & SA*, 285 F.3d 764, 773 (9th Cir. 2002) Id. at 773-74 & n.8.  
26  
27  
28