

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION**

**DR. ORLY TAITZ, ESQ., BRIAN FEDORKA,  
LAURIE ROTH, LEAH LAX, and TOM  
MacLERAN**

**PLAINTIFFS**

**VS.**

**CIVIL ACTION NO. 3:12-cv-280 HTW-LRA**

**DEMOCRAT PARTY OF MISSISSIPPI,  
SECRETARY OF STATE MISSISSIPPI,  
BARAK HUSSEIN OBAMA, OBAMA  
FOR AMERICA, NANCI PELOSI,  
DR. ALVIN ONAKA, LORETTA FUDDY,  
MICHAEL ASTRUE, JOHN DOES, JOHN  
DOES 1-100**

**DEFENDANTS**

**RESPONSE OF THE MISSISSIPPI DEMOCRATIC PARTY EXECUTIVE COMMITTEE IN  
OPPOSITION TO PLAINTIFF ORLY TAITZ’S “NOTICE OF NEW MATERIAL FACTS  
RELATED TO THE CASE”[ECF NO. 96]**

Comes now the Defendant, the Mississippi Democratic Party, by and through its governing entity, the Mississippi Democratic Party Executive Committee (“MDEC”) and, by and through its undersigned counsel, hereby responds in opposition to the Notice/Motion of Plaintiff Orly Taitz regarding “New Material Facts Related to the Case” [ECF No. 96], as follows:

The MDEC’s Motion for Judgment on the Pleadings and briefing filed in support of the motion established multiple bases for dismissal of this action, including but not limited to the following:

(a) Taitz’s attempted primary election ballot challenge under MISS. CODE ANN. § 23-15-961 must be dismissed because she failed to file her court challenge in a timely manner;<sup>1</sup>

(b) Plaintiffs’ attempted general election challenge under MISS. CODE ANN. § 23-15-963 must be dismissed because it applies only to independent candidates and, in any event, was

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<sup>1</sup> See MDEC Reply [ECF 53 at 2-3] and citations referenced therein.

not filed in a timely manner;<sup>2</sup>

(c) Plaintiffs' claims for declaratory and injunctive relief must fail for several reasons including lack of standing, and the "papers please" and heritage-based claims purporting to expand the constitutional requirements beyond the stated requirement that the President be a "natural born citizen" fail as a matter of law since there are no such additional requirements;<sup>3</sup> and

(d) Taitz's RICO claims must fail for a variety of reasons including but not limited to her lack of standing, lack of cognizable damages and her failure to allege adequately any required element of her purported RICO claim.<sup>4</sup>

Taitz's "Notice" [ECF 96] – filed a day before the hearing this Court scheduled to announce its decisions on the pending motions – is wholly irrelevant to the issues now before the Court.

In **Section 1** of her "Notice," Taitz discusses a Fox News story about certain statements reportedly made by an unnamed person regarding the process other unnamed persons went through while enrolling President Obama in healthcare insurance under the new Affordable Care Act. Taitz then makes various claims based on this news story. [ECF 96 at 2-3.] Taitz's claims – even if accurate (which they are not) and even if supported by admissible evidence (which they are not) – have no bearing on the issues raised by the MDEC's pending motion. They do not change the fact that the primary or general election contests were untimely filed and must be dismissed; they do not change the fact that Taitz has no standing to request declaratory and/or injunctive relief; they do not change the fact that Taitz does not have standing to bring a RICO claim; and they do not change the fact that Taitz has failed to allege adequately a single required element of her purported RICO claim.

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<sup>2</sup> See *id.* at 4-5 and citations referenced therein.

<sup>3</sup> See *id.* at 5-6 and citations referenced therein.

<sup>4</sup> See *id.* at 6-11 and citations referenced therein.

In **Section 2** of her “Notice,” Taitz discusses one of her other pending federal cases, a FOIA case currently pending in the Federal District Court for Maryland (*Taitz v. Colvin*, No. 3:12-cv-00280-HTW-LRA). [ECF 96 at 3-4.] Taitz claims that the Maryland court’s decision to allow her to file an amended FOIA complaint, after granting the defendant Social Security Administration’s Motion to Dismiss, proves that her RICO claim is valid. Taitz provides no reasoning nor any legal authority to support this claim – because there is none. Allowing a plaintiff the opportunity to re-plead a deficient FOIA claim seeking discrete documents in the District of Maryland District Court has nothing to do with the RICO claim Taitz has defectively alleged in this Court. Her argument is without merit.

In **Section 3** of her “Notice,” Taitz speculates about the recent death of Laura Fuddy, Director of the Hawaii Department of Health. [ECF 96 at 4-6.] While the death of a party is an unfortunate event, it has nothing to do with the deficiencies of Taitz’s pleadings, the mootness of her claims or her lack of standing. So, once again, Taitz’s claims – even if accurate (which they are not) and even if supported by admissible evidence (which they are not) – have no bearing on the issues raised in the pending motion for judgment on the pleadings. They do not change the fact that the primary or general election contests must be dismissed; they do not change the fact that Taitz has no standing to request declaratory and/or injunctive relief; they do not change the fact that Taitz does not have standing to bring a RICO claim; and they do not change the fact that Taitz has failed to allege adequately a single required element of her purported RICO claim.

In **Section 4** of her “Notice,” Taitz asserts to the Court that “a number of individuals have sent Taitz messages though her web site that they got an upcoming decision from one of the employees of the Court, claimed that the Court ruled in favor of the defense and claimed to quote sentences and passages from the upcoming decision.” Taitz claims she is “greatly concerned” about this matter. [ECF 96 at 6.] MDEC and its counsel have no knowledge of this allegation, nor about what information and letters

Taitz receives, nor about what she decides to post on her website. Regardless of what Taitz may have received, and what she may have allowed to be posted on her website, none of it bears on the sufficiency of the pleadings and defendants' rights to have their dispositive motions heard and resolved.

In **Section 5** of her "Notice, Taitz attempts to shoehorn in a new motion by petitioning the Court to refer her "evidence" of forged, fabricated and stolen identification records to a grand jury. [ECF 96 at 6-10] The Federal Rules of Civil Procedure establish the process for a party to file a motion. Fed. R. Civ. P. 7(b). Taitz, a member of the California Bar for 11 years, and admitted to practice in United States District Court for the Central District of California, has not followed it. In any event, if Taitz believes a crime has been committed, she is free to contact the United States Attorney's office or the County or District Attorney's office in the venue where she believes such a crime has been committed. Again, Taitz's "petition" to refer her "evidence" to a federal grand jury is wholly irrelevant to the issues to be decided by this Court on defendants' motions to dismiss and for judgment on the pleadings.

Wherefore, premises considered, the MDEC hereby opposes the "Notice" and, to the extent it is construed a motion, prays that it be denied.

RESPECTFULLY SUBMITTED, this the 3<sup>rd</sup> day of February, 2014.

**THE MISSISSIPPI DEMOCRATIC PARTY  
EXECUTIVE COMMITTEE**

By: /s/ Samuel L. Begley  
Samuel L. Begley (MSB No. 2315)

By: /s/ Scott J. Tepper  
Scott J. Tepper (Admitted *pro hac vice*)

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the date set forth hereinafter, a true and correct copy of the above and foregoing document was electronically filed with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

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THIS the day of February, 2014.

/s/ Samuel L. Begley \_\_\_\_\_  
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