

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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| PHILIP J. BERG, ESQUIRE, | : | |
| <i>Plaintiff</i> | : | |
| vs. | : | CIVIL ACTION NO. 2:08-cv-04083-RBS |
| | : | |
| BARACK HUSSEIN OBAMA, a/k/a | : | |
| BARRY SOETORO, a/k/a | : | |
| BARRY OBAMA, a/k/a | : | JURY TRIAL DEMANDED |
| BARACK DUNHAM, a/k/a | : | |
| BARRY DUNHAM, THE | : | |
| DEMOCRATIC NATIONAL | : | |
| COMMITTEE, THE FEDERAL | : | |
| ELECTION COMMISSION AND | : | |
| DOES 1-50 INCLUSIVE, | : | |
| <i>Defendants</i> | : | |

**ORDER DEEMING REQUESTS FOR ADMISSIONS – ADMITTED
as to DEFENDANTS, BARACK HUSSEIN OBAMA and
THE DEMOCRATIC NATIONAL COMMITTEE**

THIS CAUSE came before the United States District Court Judge, Honorable R. Barclay Surrick on Plaintiff's Motion Requesting an Order of this Court deeming Request for Admissions served upon Defendants, Barack Hussein Obama and The Democratic National Committee Admitted. Having reviewed Plaintiff's Motion and any response thereto and for good cause shown, it is hereby

ORDERED that Plaintiff's Motion is **GRANTED** and Plaintiff's First Request for Admissions upon Defendant Barack Hussein Obama numbered 1-56 and to Defendant The Democratic National Committee numbered 1-27 are hereby deemed Admitted.

BY THE COURT

Dated: October _____, 2008

Hon. R. Barclay Surrick
United States District Court Judge
For the Eastern District of PA

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| <i>Plaintiff</i> | : |
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| DEMOCRATIC NATIONAL | : |
| COMMITTEE, THE FEDERAL | : |
| ELECTION COMMISSION AND | : |
| DOES 1-50 INCLUSIVE, | : |
| <i>Defendants</i> | : |

**PLAINTIFF’S MOTION REQUESTING AN IMMEDIATE ORDER DEEMING
PLAINTIFF’S REQUEST FOR ADMISSIONS TO DEFENDANTS, BARACK
HUSSEIN OBAMA and THE DEMOCRATIC NATIONAL COMMITTEE,
ADMITTED**

NOW COMES the Plaintiff, Philip J. Berg, Esquire [hereinafter “Plaintiff”] and respectfully requests this Honorable Court to grant Plaintiff’s Motion and issue an immediate Order deeming Plaintiff’s Requests for Admissions, served upon Defendants, Barack Hussein Obama [hereinafter “Obama”] and The Democratic National Committee [hereinafter “DNC”] on September 15, 2008 “Admitted” on the following Grounds:

1. Plaintiff filed this action on August 21, 2008 requesting Declaratory and Injunctive Relief, as Obama does not meet the qualifications or eligibility to run for and/or serve as the President of the United States.
2. On or about September 9, 2008, Plaintiff filed a Motion for Expedited Discovery, Extensive Discovery and Depositions of Obama and Howard Dean,

Chairman of the DNC and the appointment of a Special Master. Defendants never Responded to or Opposed said Motion. This Motion is still pending.

3. On September 15, 2008, Defendants, Obama and the DNC, were served with discovery by Plaintiff for Request for Admissions and Request for Production of Documents. Defendants' responses were due within thirty [30] days. Plaintiff's Request for Admissions served upon Obama are attached hereto as **Exhibit "1"** and Plaintiff's Requests for Admissions served upon the DNC are attached hereto as **Exhibit "2"**
4. Defendants, Obama and the DNC did not Answer the Complaint, failed to turn over proof of Obama's citizenship status and instead filed a Motion to Dismiss on September 24, 2008. Defendants claimed Plaintiff did not have standing to bring this action and failed to state a claim which relief could be granted.
5. This Honorable Court requested Plaintiff to file any Responses in Opposition to Defendants Motion within five [5] days, that being on or before September 29, 2008 and Plaintiff complied by filing a Response in Opposition to Defendants Motion to Dismiss.
6. On or about Monday, October 6, 2008, Defendants Obama and the DNC's Attorney called Plaintiff requesting Plaintiff to agree to Staying discovery pending a decision on their Motion to Dismiss. Plaintiff declined as Obama's citizenship status is of National security as he is running for President of the United States.

7. In the afternoon of October 6, 2008, Defendants, Obama and DNC, filed a Motion for Protective Order staying all discovery pending the Court's decision on their Motion to Dismiss. In their Motion Defendants acknowledged receipt of the Requests for Admissions.
8. On or about October 9, 2008, Plaintiff filed his Response in Opposition to Defendants Motion for Protective Order.
9. Defendants have failed to timely Answer Plaintiff's requests for Admissions, which were served on September 15, 2008 and Defendants Answers were due thirty [30] days thereafter. Therefore, these matters are automatically deemed admitted in accordance with Federal Rules of Civil Procedure 36(a). *McNeil v. AT&T Universal Card*, 192 F.R.D. 492, 494 (E.D. Pa. 2000), *Goodman v. Mead Johnson & Co.*, 534 F.2d 566, 573 (3d Cir. 1976), cert. denied, 429 U.S. 1038, 97 S. Ct. 732 (1977); *Siss v. County of Passaic*, 75 F. Supp. 2d 325, 331 (D.N.J. 1999).
10. No order staying discovery has been entered in this forum. Because the proceedings in this matter have not been stayed, and because the Defendants, Obama and DNC, failed to timely Answer Plaintiff's Request for Admissions, they have been deemed admitted in accordance with Federal Rules of Civil Procedure, Rule 36(a).

11. Plaintiff has diligently prosecuted his case. Accordingly, Plaintiff requests an Order deeming Plaintiff's First Request for Admissions to Defendant Obama numbered 1-56 and to Defendant DNC numbered 1-27 Admitted.

Respectfully submitted,

Dated: October 21, 2008

s/ Philip J. Berg
Philip J. Berg, Esquire
Attorney in *Pro Se*
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Identification No. 09867
(610) 825-3134

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CERTIFICATE OF SERVICE

I, Philip J. Berg, Esquire, hereby certify that Plaintiff's Motion Deeming Plaintiff's Requests for the First Set of Admissions, served upon Defendants, Barack Hussein Obama [hereinafter "Obama"] and The Democratic National Committee [hereinafter "DNC"] via electronic filing on the ECF System, this 21st day of October 2008 upon the following:

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In pro se

/s Philip J. Berg

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