



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

PHILIP J. BERG, ESQUIRE :

*Plaintiff* :

vs. :

CIVIL ACTION NO. :

08cv4083

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 :

*Defendants* :

**MEMORANDUM IN SUPPORT OF PLAINTIFF’S MOTION FOR  
TEMPORARY RESTRAINING ORDER AND FOR EXPEDITED DISCOVERY**

Plaintiff Philip J. Berg, Esquire [hereinafter “Plaintiff”] hereby offers this Memorandum in support of his motion for a temporary restraining order, to enjoin Defendant Barack Hussein Obama, a/k/a Barry Obama, a/k/a Barry Soetoro, a/k/a Barack Soetoro, a/k/a Barry Dunham, a/k/a Barack Dunham [hereinafter “Obama”] from running for the office of President of the United States; to enjoin Defendant, Democratic National Committee from Nominating Defendant Barack Hussein Obama, a/k/a Barry Obama, a/k/a Barry Soetoro, a/k/a Barack Soetoro, a/k/a Barry Dunham, a/k/a Barack Dunham’s and placing his name on the ballot for Presidential election, and for expedited discovery in this case. Plaintiff’s Complaint challenges Defendant Obama’s eligibility to run for the

Office of President. Defendant Obama is unqualified and ineligible to run for United States Office of the President, as he is not a “natural born” citizen as required by Article II, Section I of the United States Constitution. The Democratic National Committee [hereinafter “DNC”] has failed to perform due diligence, and to verify the eligibility of Defendant Obama to run for the office of President of the United States.

As set out in Plaintiff’s Complaint, to allow Defendant Obama to continue running for Office of the President will violate the United States Constitution and Laws, which our forefathers set out to protect.

Plaintiff seeks focused and expedited discovery, so that he can demonstrate to the Court, as soon as possible, the full breadth of innocent people affected by Defendant Obama’s fraudulent campaign.

## **I. FACTUAL BACKGROUND**

Since the adoption of the U.S. Constitution, in order to serve as President, one must be a “natural born citizen” and may not hold dual citizenship or multiple citizenships with foreign Countries. U.S. Constitution, Article II, Section 1.

There appears to be no question but that Defendant Obama’s mother, Stanley Ann Dunham, was a U.S. citizen. It is also undisputed, however, that his father, Barack Obama, Sr., was a citizen of Kenya. Obama’s parents, according to divorce records, were married on or about February 2, 1961.

Defendant Obama claims he was born in Honolulu, Hawaii on August 4, 1961 and it is uncertain in which hospital he claims to have been born. Obama’s grandmother on his father’s side, his half-brother and half-sister all claim Obama was born not in Hawaii but

in Kenya. Reports reflect that Obama's mother traveled to Kenya during her pregnancy; however, she was prevented from boarding a flight from Kenya to Hawaii at her late stage of pregnancy (which, apparently, was a normal restriction, to avoid births during a flight). By these reports, Stanley Ann Dunham Obama gave birth to Obama in Kenya, after which she flew home and registered Obama's birth. There are records of a "registry of birth" for Obama, on or about August 8, 1961 in the public records office in Hawaii.

Upon investigation into the alleged birth of Barack Hussein Obama in Honolulu, Hawaii, Obama's birth is reported as occurring at two (2) separate hospitals, Kapiolani Hospital and Queens Hospital. Wikipedia English Version, under the subject "Barack Obama," states Obama was born at Kapiolani Hospital. Wikipedia Italian Version, under the subject "Queens Hospital," states Barack Obama was born in Queens Hospital.

There are further references circulating on the internet claiming examination of the hospital's records in Hawaii show no birthing records for Stanley Ann Dunham (Obama), Obama's mother. However, there are records of a "registry of birth" for Obama, on or about August 8, 1961, in the public records office in Hawaii.

Wayne Madsen, Journalist with Online Journal as a contributing writer and published an article on June 9, 2008 stating that a research team went to Mombassa, Kenya, and located a Certificate Registering the birth of Barack Obama, Jr. at a Maternity Hospital, to his father, a Kenyan citizen and his mother, a U.S. citizen.

At the time of Obama's birth in 1961, Kenya was a British Colony. There is a purported Canadian Birth Certificate, posted on the Internet, in the name of Barack Hussein Obama, Jr.; however, the date of birth is shown as August 23, 1961.

Under the Independence Constitution of Kenya, Obama became a Kenyan citizen on December 12, 1963. Chicago-based Internet journalist, broadcaster and critic Andy

Martin states that Obama has never renounced his Kenyan citizenship. Andy Martin further states that, on Obama's Senate web site, Obama tap dances around his own dual nationality when discussing his father. Obama obviously knows, because his father told him, that he (Obama) also held/holds Kenyan nationality.

If, in fact, Defendant Obama was born in Kenya, under the laws of the United States, in effect at the time of his birth, if a child was born abroad, and one parent was a U.S. citizen (which here, of course, would be Obama's mother, Stanley Ann Dunham), Obama's mother would have had to have lived ten (10) years in the U.S., five (5) of which were after she reached the age of fourteen (14). At the time of Obama's birth, his mother was only eighteen (18), and therefore did not meet the residency requirements under the law to give her son (Obama) U.S. Citizenship. The laws in effect at the time of Obama's birth did not recognize U.S. Citizenship at birth of children born abroad to a U.S. Citizen parent and a non-citizen parent, if the citizen parent was under the age of nineteen (19) at the time of the birth of the child. Obama's mother did not qualify under the law on the books to register Obama as a "natural born" citizen. Section 301(a)(7) of the Immigration and Nationality Act of June 27, 1952, 66 Stat. 163, 235, 8 U.S.C. §1401(b), Matter of S-F- and G-, 2 I & N Dec. 182 (B.I.A.) approved (Att'y Gen. 1944). Obama could only have become a U.S. citizen if naturalized, and a naturalized citizen is not qualified and/or eligible to run for the office of President of the United States. U.S. Constitution, Article II, Section I. Furthermore, if Obama was born in Kenya, his birth father Barack Obama, Sr. was a citizen of Kenya; therefore, Obama would necessarily have become a citizen of Kenya.

Furthermore, if Obama had been born in Kenya, his birth father Barack Obama, Sr. was a citizen of Kenya; therefore, Obama would have automatically become a citizen of Kenya.

**Even if Obama was, in fact, born in Hawaii, he lost his U.S. citizenship when his mother re-married and moved to Indonesia with her Indonesian husband.** In or about 1967, when Obama was approximately six (6) years old, his mother, Stanley Ann Dunham, married Lolo Soetoro, a citizen of Indonesia, and moved to Indonesia with Obama. At this time, if Obama was registered in Indonesia as a “natural born” citizen of that country (which, in the absence of any proof that he was born in Indonesia, or that either of his birth parents, for that matter, was Indonesian, he was not) Obama lost his U.S. citizenship, when his mother married Lolo Soetoro, and took up residency in Indonesia. Loss of citizenship, in these circumstances, under U.S. law (as in effect in 1967) required that foreign citizenship have been achieved through “application.” Such type of naturalization occurred, for example, when a person acquired a foreign nationality by marriage to a national of that country. Nationality Act of 1940, Section 317(b). A further issue is presented that, at least according to information in circulation on the Internet, Obama’s Indonesian stepfather, Lolo Soetoro, may have adopted Obama.

The Nationality Act of 1940 provided for the loss of citizenship when a child became naturalized in a foreign country upon the naturalization of his or her parent having custody of such child. Obama’s mother expatriated her U.S. Citizenship when she married Lolo Soetoro, a citizen of Indonesia, and relocated with her son (Obama) to Indonesia.

Obama was enrolled by his parents in a public school, Fransiskus Assisi School in Jakarta, Indonesia. Plaintiff has received copies of the school registration, in which it clearly

states Obama's name as "Barry Soetoro," and lists his citizenship as Indonesian. Obama's father is listed as Lolo Soetoro, Obama's date of birth and place of birth are listed as August

4, 1961 in Honolulu, and Obama's Religion is listed as Islam. This document was verified by Inside Edition, whose reporter, Matt Meagher took the actual footage of the school record.

In or about 1971, Obama's mother sent Obama back to Hawaii. Obama was ten (10) years of age upon his return to Hawaii.

Sometime after the return of Obama to Hawaii, Obama's mother, Stanley Ann Dunham, returned to Hawaii and divorced her second husband, Lolo Soetoro. At the time of this divorce, Obama's mother, Stanley Ann Dunham, *could have* regained her U.S. Citizenship. In order to regain her U.S. citizenship, Obama's mother would have had to take the Oath of Allegiance required. Such Oath of Allegiance may be taken abroad, before a diplomatic or consular officer of the United States, or in the United States, before the Attorney General or the judge or clerk of a Court. Such Oath of Allegiance would have been entered in the records of the appropriate embassy, legation, consulate, court, or the Attorney General; and upon demand, a certified copy of the proceedings, including a copy of the oath administered, under the seal of the embassy, legation, consulate, court or the Attorney General shall be delivered. The certified copy shall be evidence of the facts stated therein before any court of record or judicial tribunal and in any department or agency of the Government of the United States. 8 U.S.C. § 1435.

As stated above, the Nationality Act of 1940 provided for the loss of citizenship when the person became naturalized abroad, upon the naturalization of his or her parent having custody of such person. Obama's mother expatriated her U.S. Citizenship when she

married Lolo Soetoro, a citizen of Indonesia, and relocated her and her son (Obama) to Indonesia.

Plaintiff believes that Obama's mother failed to take the oath in order to regain her U.S. Citizenship. If that be the case, Obama could not have regained the U.S. citizenship that he lost upon his mother's re-marriage and relocation to Indonesia, until he reached eighteen (18) years of age, and unless he took the Oath of Allegiance before a diplomatic or consular officer of the United States, or in the U.S. before the Attorney General or the judge or clerk of court. Plaintiff is informed, believes and thereon alleges that Obama (assuming he had had United States citizenship, by reason of his claimed birth in Hawaii, in the first place) failed to regain his citizenship by taking the Oath of Allegiance. Since the oath of allegiance would have been entered in the records of the appropriate embassy, legation, consulate, court or the Attorney General, if Plaintiff is incorrect, then Obama should be able to produce, in Court, a certified copy of the proceedings, including a copy of the oath administered.

Investigation further showed that, in 1981, Obama traveled to Pakistan, using his Indonesian passport. At the time of his travels to Pakistan, Obama was twenty (20) years old. He certainly knew that he retained his Indonesia citizenship, and it is implausible that he could not have known that he had failed to regain his United States citizenship (if, again, he had been born in Hawaii). Indonesia does not allow dual citizenship. Had Obama regained his United States citizenship, he would have been traveling on a United States Passport.

Obama and his campaign office have been asked for Obama's Certificate of Birth, in order to prove he is a "natural born" citizen as required by the U.S. Constitution.

After many requests by the media and members of the public for a copy of Obama Obama's Certificate of Birth, a Hawaiian Certificate of Live Birth (COLB) was placed on Obama's campaign website. However, as posted all over the internet three (3) independent

document forensic experts have performed extensive forensic testing on the Certificate of Live Birth posted on Obama's campaign website. The forensic experts' findings were the Certificate of Live Birth (COLB) is in fact a forgery. It was further discovered that the original Certificate of Live Birth which had been altered and forged was issued to Maya Kasandra Soetoro, born in 1970. Maya Kasandra Soetoro is Obama's half-sister, who was born in Indonesia, and her birth was later registered in Hawaii. The altered and forged COLB is still on Obama's campaign website located at <http://my.barackobama.com/page/invite/birthcert>.

Further investigation led to Obama's State Bar Registration and Public Disciplinary Record. On the Illinois State Bar Registration and Public Disciplinary Record, it specifically asks for "Full former name(s). Obama put "None", when in fact he went by the name Barry Soetoro, and Barry Obama. It is further believed Obama has used the name Barry Dunham. Obama lied on the State government form that he signed under the penalty of perjury.

Even if Obama had and maintained United States citizenship (which Plaintiff believes he failed to do) he also holds citizenship in Kenya and Indonesia. Obama has divided loyalties with foreign countries. Thus, Obama carries multiple citizenships, and is ineligible to run for President of the United States. United States Constitution, Article II, Section I.



All the efforts of supporters of legitimate citizens, candidates for the Democratic presidential nomination were for nothing, because Obama cheated his way into a fraudulent candidacy, and cheated legitimately eligible, natural-born citizens from competing in a fair process, and the supporters of their choice of an eligible U.S. citizen for the nomination.

Voters donated money, goods and services to select a nominee, and were defrauded by Obama's obfuscations. Obama clearly shows consciousness of guilt by his actions by posting a forged birth certificate on his website, and by and the falsifications he told to cover his loss of citizenship.

Obama proclaims himself a Constitutional scholar and lecturer, but apparently failed to detect his own ineligibility to become President.

Injunctive relief must be granted, because failing to do so will permit the perpetuation of a fraud and the disenfranchisement of every person who voted in a Democratic primary in 2008. Failure to grant injunctive relief would allow a corrupted, fraudulent nomination process to continue.

The denial of injunctive relief would not only allow such a process to continue, but would foster an overwhelming degree of disrespect and cynicism for the electoral process (already sullied in the public mind by irregularities in the last several election cycles) and threaten to confirm the unfortunately widespread belief that no potential candidate has to obey the laws of this country, respect our election process, follow the Constitution, or even suffer any consequence for lying and defrauding voters to get onto the ballot, when they have no chance of lawfully serving if they fraudulently manage to get elected.

If declaratory and injunctive relief is not given, it would be extremely unfair to the country for candidates of either party to become the nominee, when there is any question as to the nominee's eligibility to serve if elected.

As stated above, Plaintiff as well as tens of millions of American voters, Democrats and persons disinclined to vote for the presumptive nominee of the Republican Party, Senator McCain, will suffer irreparable harm, if declaratory and injunctive relief is not granted. Plaintiff does not have any other way of redress regarding these very significant and important issues.

The DNC has failed Plaintiff as well as voters across the country, by its failure to perform due diligence, and to properly ascertain Obama's ineligibility to run for Office of the President.

Should Obama become the Nominee of the Democratic Party, and it should then be discovered by virtue of malfeasance, or negligence, on his part not to have revealed material evidence showing him to be ineligible for the Office of President of the United States of America, presumably his nomination or his election will at some point be voided, to the irreparable harm of Plaintiff and others, including but not limited to:

- A) Functional, or actual, disenfranchisement of large numbers of citizens, being members of the Democratic Party or other persons wishing to vote for a viable candidate other than Senator McCain, who will have been deprived of the ability to choose and to elect a Constitutionally eligible candidate of their liking;

- B) Irreparable Harm to the structure and integrity of the Democratic Party and the Democratic National Committee. In turn this too would lead to Disenfranchisement; and
- C) A severe and genuine likelihood of turmoil or even civil disturbance, by virtue of reaction to such disenfranchisement.

**II. THIS COURT SHOULD GRANT PLAINTIFF’S MOTION FOR A  
TEMPORARY RESTRAINING ORDER AND PUT A STOP  
TO DEFENDANT OBAMA’S FRAUDULENT CAMPAIGN SCHEME**

Plaintiff is plainly entitled to a temporary restraining order, pursuant to Rule 65 of the Federal Rules of Civil Procedure, to halt the use of Defendant Obama’s fraudulent campaign schemes to secure the Office of President of the United States, knowing he is not eligible under the provisions of the United States Constitution, Article II, Section I.

Specifically, this Court must grant Plaintiff’s motion for a temporary restraining order (“TRO”) because: (1) there is reasonable probability that Plaintiff will succeed on the merits; (2) they will suffer irreparable harm in the absence of relief; (3) there will be little or no harm to the Obama if relief is granted; and (4) the public interest demands a grant of relief. *See, e.g. Swartzwelder v. McNeilly*, 297 F.3d 228, 234 (3<sup>rd</sup> Cir. 2002); *Alessi v. Pennsylvania Dep’t of Public Welfare*, 983 F.2d 1444, 1447 (3d Cir. 1990); *Prison Health Servs., Inc. v. Umar*, Civil Action No. 02-2642, 2002 U.S. Dist. LEXIS 12267 (E.D. Pa. May 8, 2002). The standards for a preliminary injunction and a TRO are the same. *Mertz v. Houstoun*, 155 F. Supp.2d 415, 425 n.12 (E.D. Pa 2001); *Bieros v.*

*Nicola*, 857 F. Supp. 445, 446-47 (E.D. Pa. 1994). While the degree of probability of success on the merits required to obtain such relief varies among Federal Courts of Appeals, the U.S. Court of Appeals for the Third Circuit requires only a “reasonable likelihood” of success. See *Johnson & Johnson Orthopedics, Inc. v. Minnesota Mining & Mfg. Co.*, 715 F. Supp. 110, 112 n.1 (D. Del. 1989). Plaintiff easily meets each of the four requirements for a temporary restraining order.

**A. Plaintiff Has A Very Strong Likelihood of Success in Challenging Obama’s Eligibility to Run For Office of President of The United States**

If in fact Obama was born in Kenya, the U.S. laws on the books, at the time of his birth, stated if a child was born abroad, and only one parent was a U.S. Citizen (which plainly applies to Obama) Obama’s mother would have had to have lived ten (10) years in the U.S., five (5) of which were after she reached the age of fourteen (14). At the time of Obama’s birth, his mother was only eighteen (18), and therefore it is an impossibility that she met the residency requirements, under the prevailing law, to give her son Obama U.S. Citizenship. The laws in effect at the time of Obama’s birth withheld U.S. citizenship from children born abroad to one U.S. citizen parent and one non-citizen parent, if the citizen parent was under the age of nineteen (19) at the time of the birth of the child. Obama’s mother did not qualify under the law on the books to register Obama as a “natural born” citizen. Section 301(a)(7) of the Immigration and Nationality Act of June 27, 1952, 66 Stat. 163, 235, 8 U.S.C. §1401(b), Matter of S-F- and G-, 2 I & N Dec. 182 (B.I.A.) approved (Att’y Gen. 1944). If born in Kenya, Obama could have become a United States citizen by naturalization at some date subsequent to his birth — but a naturalized citizen is not qualified

to be President, and it would be a terrible travesty and disservice to the public and to an orderly electoral process to permit an unqualified non-citizen or naturalized citizen to be placed on the general election ballot. U.S. Constitution, Article II, Section I.

Section 301(a)(7) of the Immigration and Nationality Act of 1952 states in pertinent part: “(a) The following shall be nationals and citizens of the United States at birth: (7) a person born outside the geographical limits of the United States and its outlying possessions of parents one of whom is an alien, and the other a citizen of the United States,

who prior to the birth of such person, was physically present in the United States or its outlying possessions for a period or periods totaling not less than ten (10) years, at least five (5) of which were after attaining the age of fourteen (14) years.”

Furthermore, if Obama had been born in Kenya, his birth father Barack Obama, Sr. was a citizen of Kenya; therefore, Obama would have automatically become a citizen of Kenya.

Even if Obama was born in the United States — which Plaintiff believes he was not — he apparently lost his United States citizenship when he was six (6) years old. Obama lived in the care and custody of his mother, Stanley Ann Dunham. Obama’s mother married Lolo Soetoro, a citizen of Indonesia, and relocated with Obama to Indonesia. There is no indication that Obama’s mother, during his minority, herself took the Oath of Allegiance necessary for her to regain her U.S. Citizenship. Presumably, therefore, Obama could not have regained his U.S. Citizenship until he turned eighteen (18) years, and upon taking the Oath of Allegiance before a diplomatic or consular officer of the United States, or in the U.S. before the Attorney General or the judge or clerk of court. Plaintiff is informed, believes and thereon alleges Obama failed to regain his citizenship, by taking the Oath of Allegiance. If

Plaintiff is incorrect in making this allegation, it should be a simple matter, as the oath of allegiance would have been entered in the records of the appropriate embassy, legation, consulate, court or the Attorney General, for Obama to produce in Court a certified copy of the proceedings, including a copy of the oath administered — if, in fact, he took the oath. 8 U.S.C. § 1435, Nationality Act of 1940.

The Democratic National Committee (DNC) is supposed to represent and protect the interests of working Americans, which includes securing a Democratic Nominee on the

Presidential Election ballot who represents the Democratic vision, and who is qualified and eligible to run for the office of President under the qualifications of the United States Constitution. The DNC has failed to make adequate inquiry into Obama's eligibility status.

Should Obama become the presidential nominee of the Democratic Party, and it should then be discovered that he concealed information showing him to be Constitutionally ineligible to serve as President, as every major party nominee has political enemies with resources behind them sufficient to institute and to maintain court proceedings to that end, it is unthinkable that there would *not* be an effort made to disqualify Obama, to strike his name from the ballot, to declare him ineligible to assume the Office of President if elected, or even to force him to resign or be removed from office, were he to be elected and sworn in January 2009. Any of these outcomes would be a disaster to the political stability of the United States, to our country's standing in the world, and to public confidence in the electoral process, and would inflict irreparable harm upon Plaintiff and others, including but not limited to:

- A) Functional, or actual, disenfranchisement of large numbers of citizens, being members of the Democratic Party, who would have been

deprived of the ability to choose a nominee of their liking; and the disenfranchisement of voters of whatever affiliation who would have liked the opportunity to select a Constitutionally-eligible candidate other than Senator McCain;

B) Irreparable Harm to the structure and integrity of the Democratic Party and the Democratic National Committee. In turn this too would lead to disenfranchisement; and

C) A severe and genuine likelihood of political turmoil, and even civil disturbance by virtue of reaction to said disenfranchisement.

**B. There Will Be Minimal Harm To Obama If Relief Is Granted**

Granting Plaintiff's motion for a temporary restraining order will result in negligible harm to Defendant Obama, or the DNC. The Obama campaign and the DNC have raised millions of dollars to support his candidacy for the presidency. If Obama was born in Honolulu as claimed, it should be short work for him (or a person acting in his behalf) to obtain, and to present to the Court, a verifiably genuine, certified copy of his birth certificate. Likewise, assuming proof of Obama's birth in Hawaii, if Obama's mother (during his minority) or Obama himself (after reaching the age of 18) regained the United States citizenship lost by reason of Stanley Ann Dunham's second marriage to the Indonesian Lolo Soetoro and her relocation with Obama to Indonesia, those facts will be susceptible of proof from public records, as Obama (given his considerable resources) should be able to produce in court in a matter of a few days, at most.

Should it be the case that, as Plaintiff alleges, Obama is either a non-citizen of the United States, or is a citizen only by virtue of naturalization (as in the case that, in

fact, he was born in Kenya) manifestly it is better that those facts, which is to say Obama's ineligibility to be President of the United States, come to light now, rather than hereafter.

### **C. The Public Interest Supports A Grant of Relief**

Plaintiff meets the fourth prong of the temporary restraining order test, as well, because the public interest supports the request for immediate relief. No legitimate public interest whatsoever can be served by permitting the continuation of what amounts to a knowingly unlawful, fraudulent scheme to obtain the presidency for an individual who, whatever his political views, his accomplishments, or his personal qualities, is simply not eligible under the Constitution to hold the office. Plaintiff, the people of Pennsylvania, Democratic voters nationwide, potential voters desiring an alternative to Senator McCain, and even non-voters who, even if indifferent to which candidate becomes President, have an interest in avoiding the disruption or even civil disturbance that might attend a further-delayed determination of Obama's ineligibility, all have a compelling interest to be vindicated far more effectively and in a more targeted way if the United States Constitution is upheld and Obama is removed from the Presidential election.

### **D. Conclusion**

This Court should issue a temporary restraining order, prohibiting Obama from being formally confirmed as the Democratic Party nominee for President of the United States, and enjoining Obama, the DNC, and persons acting in concert with them or in their behalf, from continuing to solicit donations for his candidacy, pending expedited discovery and a prompt hearing, at which time Obama's and the DNC's attorneys can satisfy the Court, by appropriate testimonial and documentary evidence, that Obama qualifies as a natural-born



citizen of the United States, and if elected will be eligible under the Constitution to serve in that office.

Plaintiff has demonstrated a very strong likelihood of success that this fraudulent campaign scheme of Obama's violates the United States Constitution, Article II, Section I; that Plaintiff and millions of U.S. citizens will suffer irreparable injury, if relief is denied; and that the failure to grant injunctive relief would pose nothing less than a danger to Constitutional government and potential civil disturbance. The balance of hardships imposes

little burden on Obama: all he need do is to prove that he was born in Hawaii, and that he (or, during his minority, his mother) took the Oath of Allegiance to restore U.S. citizenship lost when Obama's mother re-married an Indonesian citizen and moved with Obama to Indonesia.

### **III. THIS COURT SHOULD GRANT PLAINTIFF'S REQUEST FOR EXPEDITED DISCOVERY**

Plaintiff also seeks leave from this Court to begin discovery immediately so that Plaintiff can demonstrate to the Court, as part of preliminary injunction proceedings, the full extent of Obama's fraudulent schemes in way of attempting to run and get elected as President of the United States knowing he is ineligible as he is not a "natural born" citizen. It is crucial Plaintiff obtain certified copies of Obama's birth records, oath if it exists, adoption records, passport records and all other records which prove he is not a citizen of the United States and/or a "natural born" citizen.

Courts have authorized expedited discovery on good cause shown, notwithstanding the strictures of Rule 26(d) of the Federal Rules of Civil Procedure (that

no discovery shall take place until the parties have conferred pursuant to Rule 26(f). Indeed, the Third Circuit has emphasized that “[u]nder the Federal Rules of Civil Procedure and our jurisprudence, district courts have broad discretion to manage discovery.” *Sempier v. Johnson & Higgins*, 45 F.3d 724,734 (3d Cir. 1995). Specifically, in the context of expedited discovery sought for purposes of a preliminary injunction motion, courts have inquired as to the “reasonableness of the request in light of all the surrounding circumstances.” *Merrill Lynch, Pierce, Fenner & Smith v. O’Connor*,

194 F.R.D. 618, 624 (N.D. Ill. 2000); *see also Educational Comm’n for Foreign Sch. Med. Graduates v. Repik*, Civil Action No. 99-1381, 1999 U.S. Dist. Lexis 7185, at \*7 (E.D. Pa. May 14, 1999) (“Expedited discovery in connection with a preliminary injunction motion is appropriate.”). In *Yokohama Tire Corp. v. Dealers Tire Supply, Inc.*, 202 F.R.D. 612, 614 (D. Ariz. 2001), in ruling on a motion to permit expedited discovery in advance of a Rule 26(f) scheduling conference, the court stated that “[a]bsent credible authority to the contrary, the Court adopts a good cause standard.” *See also Pod-Ners, LLC v. Northern Feed & Bean*, 204 F.R.D. 675, 676 (D. Colo. 2002).

The reasons furnished by Plaintiff in support of his request pass any of the legal thresholds used by district courts in assessing motions to expedite discovery. Here, there is good cause for discovery to begin immediately. Plaintiff believes that, at this moment, there is a strong likelihood that, in the absence of injunctive relief, Obama will be formally nominated by the Democratic Party as its nominee for the Office of President of the United States. Plaintiff’s request also works minimal prejudice or unfairness to Obama, himself, as (at most) all that Obama would have to do in person (although certainly he would be entitled to appear and to give testimony, or submit an affidavit

stating the facts) would be to execute authorizations, prepared by his attorneys or by members of his staff, for relevant birth, passport, consular (Oath of Allegiance) and other relevant documents to be obtained and certified.

Finally, Plaintiff's discovery request is narrowly tailored to obtain only the information it needs to pursue preliminary injunctive relief prohibiting Obama from running for President, and enjoining the DNC from naming Obama as a Democratic President Nominee.

#### IV. CONCLUSION

This Court should grant Plaintiff's request for a temporary restraining order and should allow focused discovery to begin immediately.

Respectfully submitted,

s/ Philip J. Berg

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