

Dr. Orly Taitz, ESQ

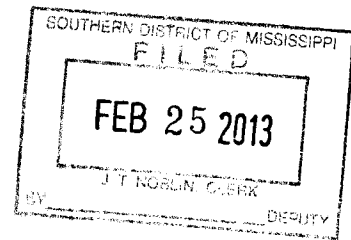
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PRO SE PLAINTIFF IN MS



IN THE US DISTRICT COURT
 SOUTHERN DISTRICT OF MISSISSIPPI

Dr. Orly Taitz, ESQ et al) CASE 12-CV-280
 v) HON. HENRY WINGATE
 Democratic Party of Mississippi et al) PRESIDING

**MOTION FOR RECONSIDERATION OF THE DENIAL OF DEFAULT JUDGMENT
 AGAINST THE COMMISSIONER OF SOCIAL SECURITY ADMINISTRATION**

On 02.20.2013 this court denied a motion for the default judgment against the Commissioner of the Social Security Administration.

Pro se plaintiff Taitz is requesting a reconsideration of the denial for the following reasons:

**THERE WAS A SUBSTANTIAL COMPLIANCE WITH THE SERVICE OF PROCESS AND
 THE DEFENDANT WAS AWARE OF THE LEGAL ACTION FILED AGAINST HIM**

The general attitude of the federal courts is that the provisions of Federal Rule 4 should be liberally construed in the interest of doing **substantial** justice. This is

consistent with the modern conception of **service of process** as primarily a notice-giving device. In addition, the avoidance of dismissals for improper **service**, especially when the defect is technical in nature, has the desirable objective of promoting the forward movement of the litigation and the disposition of cases on their merits, which are goals prescribed in Rule 1

(Liberal construction of rule 4

Combs v. Nick Garin Trucking, C.A.1987, 825 F.2d 437, 446, 263 U.S.App.D.C. 300, **citing Wright & Miller.**

Light v. Wolf, C.A.1987, 816 F.2d 746, 749, 259 U.S.App.D.C. 442, **citing Wright & Miller.**

Nowell v. Nowell, C.A.5th, 1967, 384 F.2d 951, certiorari denied 88 S.Ct. 1053, 390 U.S. 956, 19 L.Ed.2d 1150, noted 1968, 17

Kan.L.Rev. 125. Karlsson v. Rabinowitz, C.A.4th, 1963, 318 F.2d 666. Rovinski v. Rowe, C.A.6th, 1942, 131 F.2d 687)..

Fulcher v. City of Wichita United States District Court, D. Kansas. August 18, 2006 445 F.Supp.2d 1271

"...Before there can be valid **service of process** under Kansas statute, there must be **substantial compliance with some method of service and, thereafter, irregularities and omissions will be cured by awareness of the action.** K.S.A. 60-204..... See K.S.A. §60-204 ("In any method of serving process, **substantial**

compliance therewith shall effect valid service of process if the court finds that, notwithstanding some irregularity or omission, the party served was made aware that an action or proceeding was pending in a specified court in which his or her person, status or property were subject to being affected.”)....

Bounds v. Pine Belt Mental Health Care Resources

United States Court of Appeals, Second Circuit. January 27, 2010 593 F.3d 209

GOVERNMENT - States. Letter to public mental health facility **substantially** complied with notice requirements of

Mississippi Tort Claims Act.

" To satisfy the foregoing requirements, **Mississippi** law requires only **substantial compliance....**"

Precision Etchings & Findings, Inc. v. LGP Gem, Ltd.

United States Court of Appeals, First Circuit. January 09, 1992 953 F.2d 21

Appeal was taken from default judgment entered by the United States District Court for the District of Rhode Island,

Raymond J. Pettine, Senior District Judge, in connection with...

... **“minor” formal defects are excusable provided actual notice has been accomplished**, see, e.g., Sanderford v.Prudential Ins. Co., 902 F.2d 897, 899 (11th

Cir.1990) (district court not deprived of in personam jurisdiction by failure to include return date for responsive pleading in duly served summons),

Direct Mail Specialists, Inc. v. Eclat Computerized Technologies, Inc.

United States Court of Appeals, Ninth Circuit. February 24, 1988 840 F.2d 685

In action for **services** rendered, default judgment was entered by clerk of court. Defendant's motion to remove default was denied by the United States District Court for the Southern...

“...**Service of process** on receptionist in shared office of defendant corporation and another corporation was sufficient to create personal jurisdiction over defendant where she was the only employee in the office, demonstrating that more than minimal responsibility was assigned to her, and defendant had actual knowledge of **service of process** no later than the next day, as indicated, among other things, by fact that its president, a lawyer, complained to plaintiff about **service of process** the day after it was made. Fed.Rules Civ.Proc.Rule 4(d)(3), 28 U.S.C.A....

...RULE WITH RESPECT TO SERVICE OF PROCESS IS A FLEXIBLE ONE THAT SHOULD BE LIBERALLY CONSTRUED SO LONG AS PARTY RECEIVES

SUFFICIENT NOTICE OF COMPLAINT”

Ramirez De Arellano v. Colloides Naturels Intern.

United States District Court, D. Puerto Rico. March 14, 2006 236 F.R.D. 83

INTERNATIONAL LAW - **Process**. Plaintiff's attempted **service of process** on French company did not comply with Hague Convention. “...If first **service of process** is ineffective, and defects are curable, court should treat motion to dismiss for **insufficiency of service of process** as motion to quash **service of process** in alternative and **retain case pending effective service.**”

1. Taitz is not an attorney in this case, she is a pro se plaintiff.
2. Taitz and Commissioner of Social Security Administration are adversary parties in the related case Taitz v Astrue US Court of Appeals for the District of Columbia Circuit 11-5304, where defendant Commissioner of Social Security administration Michael Astrue is represented by the Deputy U.S. Attorney Helen Gilbert. Ms. Gilbert was receiving pleadings through her official e-mail address at the Department of Justice/DC U.S. Attorneys' office at Helen.L. Gilbert@usdoj.gov
3. As Taitz and Astrue are opposing parties in the litigation Taitz was seeking to act in an ethical manner and served Mr. Astrue through his attorney. Moreover, it

could have been construed as harassment or unethical if she would have tried to contact Mr. Astrue directly when he is represented by an attorney. As such in April 2012 Taitz served Mr. Astrue through his attorney Deputy U.S. Attorney Helen Gilbert. As prior judge in the case, Circuit Judge Coleman required pleadings to be delivered by e-mail, Mr. Astrue's attorney Ms. Gilbert was served via e-mail in April 2012 together with all other defendants and their attorneys. See Exhibit 1 e-mail with attached First Amended Complaint sent to all the defendants and Mr. Astrue's attorney Ms. Gilbert. Before Taitz could obtain summons from the state court for the additional defendant Astrue, other defendants removed the case to the federal court. When this court ruled that the jurisdiction is indeed in the federal court Taitz immediately obtained summons from the clerk of this court and forwarded the complaint and summons to the professional process server and paid for their services. The summons were delivered to the U.S. Attorney's office in Washington DC. The office that is working with the SSA and which represents now retired Commissioner Astrue is the DC U.S. Attorneys' office. The summons in this case clearly state that the Defendant Commissioner Astrue is served through the U.S. Attorneys' office. Please, see the attached printout of the official address of the U.S. Attorneys' office in Washington DC Exhibit 2. It is the same address as the address of the Attorney General. There is only one clerk receiving pleadings and summons at that address. The case on point is Brown v Menlo which quoted:

Brown v. Menlo Worldwide Expedite United States District Court, D. Kansas. July 17, 2006 Not Reported in F.Supp.2d On July 22, 2005, plaintiff pro se filed suit against Menlo Worldwide Expedite!, alleging that it refused to hire her on the basis of race in violation of Title VII of the Civil Rights Act.....In *Brisco v. Getto*, 204 Kan. 254, 256-257, 462 P.2d 127,129 (1969), the Kansas Supreme Court, interpreting “**substantial compliance**,” held that “before there can be a valid personal **service of process** there must be a **substantial compliance** with some method of process provided in K.S.A. 60-301 et seq. It is only after **substantial compliance** that irregularities and omissions are cured by awareness of a pending proceeding....

...IN RICHARDSON V. ALLIANCE TIRE & RUBBER CO., 158 F.R.D. 475, 482 (D.KAN.1994), THE COURT HELD THAT SERVICE OF PROCESS WAS IN SUBSTANTIAL COMPLIANCE WITH THE STATUTE WHERE THE PROCESS-SERVER LEFT THE SUMMONS AND COMPLAINT WITH DEFENDANT'S CORPORATE SECRETARY, WHO WAS THE ONLY PERSON IN THE OFFICE AT DEFENDANT'S BUSINESS ADDRESS AT THAT TIME....

Similarly, in case at hand there is only one secretary accepting pleadings for the Attorney General of the U.S. and the U.S. Attorneys' office working under the Attorney General in the same office. The summons clearly stated that the

defendant is served through the U.S. Attorneys' office, so even though the professional process server company "Same Day Process servers" did not state "Attorney General and U.S. Attorney" and wrote only "Attorney General", the U.S. Attorneys' office was indeed served.

4. Social Security Administration headquarters in Baltimore refuse to accept service of process.

Please, see Exhibit 3, a printout of the report from the process server, stating that the Social Security Administration refuses to accept service of process. Moreover, there is a pattern of multiple governmental officials simply refusing to accept service of process and advising the process servers to serve the summons, pleadings and subpoenas at the Department of Justice. In 2009 a similar case Keyes v Obama 9th circuit Court of Appeals 09-56827 and 10-55084 was filed. Multiple governmental agency including Barack Obama himself refused to accept service. Please, see an affidavit of Mary Ann McKiernan, a patriot and supporter of Taitz, who specifically travelled to DC and tried to serve the summons, pleadings and subpoenas on Obama at the White House and on several other agencies only to be told to serve everything at the Department of Justice, which houses both the attorney General and the U.S. Attorney's office, which represents all the federal agencies in litigations. So, Taitz served Astrue at the only office which accepts summons and routinely

represents Astrue. Moreover, in two other cases Taitz v Sebelius SAcv-12-1092 Central District of California, 3:12-cv-03251 US District Court Northern District of Texas, challenging the ACA, also known as Obamacare, Taitz served the U.S. Attorney in her jurisdiction and the summons and complaint were transferred to the U.S. Attorney in DC, who represented all the Federal defendants including the Commissioner Astrue. As such Taitz served the US Attorneys' office which is responsible for represented Commissioner Astrue and which routinely represents him. This case revolves around the facts that Barack Obama is using a stolen Social Security number, a number which was never assigned to him. Considering the fact that Obama is listed a citizen of Indonesia in his school records from Indonesia and that he was removed from his mothers American passport, when he became a citizen of Indonesia, we have a foreign national, a citizen of Indonesia usurping the U.S. Presidency using forged and stolen IDs. This is a matter of the outmost importance to the National security and the issue of High Treason, as such Taitz served directly the US Attorneys office representing Astrue, in order to expedite the matter and not wait for the local office in MS to transfer the case to DC.

4. There is a pattern of Commissioner Astrue not responding and not complying with court orders. Please, see exhibit 5 Docket from Taitz v Astrue 11-5304. U.S. Court of Appeals District of Columbia Circuit. In

this case former commissioner Astrue is being represented by Deputy U.S. Attorney Helen Gilbert. The case is a Freedom of Information case under 5US §552, where Taitz was seeking the original SS-5 application to the CT SSN xxx-xx-4425 Obama is using, which does not pass E-Verify and SSNVS and shows Obama using a number which was never assigned to him. Originally the court denied the FOIA request, however on 01.29.2013 Taitz submitted a motion to recall the mandate and reconsider due to new decisions and new evidence. She submitted newly discovered information, Affidavit of investigator Al Hendershot, Exhibit 6 who uncovered the name of the individual, who was born in 1890 and whose death was never reported to the SSA and whose Social Security number was unlawfully assumed since 1986 by Obama. The court docket shows that defendant Commissioner of Social Security Astrue was ordered to file a response by 02.11.2013. Astrue and his attorney Deputy U.S. Attorney Helen Gilbert never filed a response. In this case they cannot possibly claim that they were not served, as they are being served automatically via Electronic Court Filing. So, there is clearly a pattern of former Commissioner Astrue and the U.S. Attorney's office/Department of Justice led by Obama appointee Eric Holder to cover up Obama's use of a stolen Social Security number, as Obama does not have a valid birth certificate, he is using a

laughable computer generated forgery as a birth certificate and could not lawfully obtain a Social Security number.

5. Based on all of the above and per precedent of Fuller v City of Wichita finding:

“In any method of serving process, substantial compliance therewith shall effect valid service of process if the court finds that, notwithstanding some irregularity or omission, the party served was made aware that an action or proceeding was pending in a specified court in which his or her person, status or property were subject to being affected.”).... Taitz is requesting this court to hold a hearing at the earliest convenience and subpoena Deputy US Attorney Gilbert, employee of the Justice Department Donna Whitle and the U.S. Attorney who received the summons and the First Amended complaint from Whitle to testify to this court whether they indeed forwarded the summons and complaint to former Commissioner Astrue. This court has jurisdiction over all of these federal employees under 28 U.S.C.A. 1361. If they attest that they did so, then Astrue indeed had a notice and had a duty to respond and currently is in default for not responding. Alternatively, if the court is not willing to hold a hearing to ascertain whether Astrue indeed had a notice of legal proceedings against him, then Taitz is requesting a leave of court to supplement service.

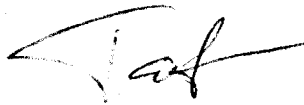
Requested relief is in the interest of Public Policy

In general courts seek to adjudicate cases on the merits. It is even more essential in the case at hand. This court received previously affidavits of Felicito Papa, Linda Jordan, Susan Daniels, who have shown that Obama posted his tax returns on line and forgot to flatten the PDF file, whereby full unredacted Social Security number used by him became available to the public. It was checked and it failed both E-Verify and SSNVS, two governmental agencies, which are used for verification of Social Security numbers. Investigators Sankey and Daniels reported that in multiple databases the number in question shows to be assigned to an individual born in 1890. Taitz provides an affidavit of Investigator Albert Hendershot (Exhibit 6) which provided the name of the individual whose Social Security number Obama is using, it shows Harrison Harry J. Bounel at the same address as Obama, 5046 S. Greenwood Ave, Chicago, with the same Social Security number xxx-xx-4425. Taitz submits the last missing piece of information: US Census printout from 1940(Exhibit 7), showing Harry J. Bounel age 50 in 1940, immigrant from Russia, residing at 915 Daly Ave NY. This census printout provided the last bit of information and tied reports by licensed investigators Sankey and Daniels, which showed xxx-xx-4425 assigned to an individual born in 1890 and report by Hendershot, which showed Harry J. Bounel at the same address as Obama, under the same Social

Security number, but did not have the age. The census filed in the blank and showed that since Harry Bounel was 50 years old in 1940, he indeed was born in 1890. (Exhibit 7).

As such we have a case of High Treason and use of a stolen Social Security number by a foreign national usurping the U.S. Presidency. This is the most egregious crime ever committed against the United States of America and it requires expedient adjudication. Taitz requests an evidentiary hearing at the earliest convenience of Honorable Judge Wingate to show that former Commissioner Astrue was served or in alternative a leave of court to supplement service to the satisfaction of the court within 10 days.

Respectfully,



/s/ Dr. Orly Taitz, ESQ

02.21.2013

Service of process

I, Lila Dubert attest that all of the parties on the attached distribution list were served with the attached "Motion to reconsider denial of default judgment" on 02.21.2013 by submitting it to the court and subsequent ECF filing and/or first class mail.

Lila Dubert

Plaintiff

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PRO SE

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V.

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Defendant

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Defendant

Jane Does

Defendant

John Does 1-100

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PRO SE