

IN THE DISTRICT COURT
OF SHAWNEE COUNTY, KANSAS

FILED BY CLERK
KS. DISTRICT COURT
THIRD JUDICIAL DIST.
TOPEKA, KS

2012 OCT 10 P 1:52

ORLY TAITZ, ESQ.

and

ROGER WALTERS

Plaintiffs

v.

KRIS KOBACH,
SECRETARY OF STATE OF KANSAS,

and

KANSAS OBJECTION BOARD

Defendants.

Case No. 12-C-001027
Chapter 60

**MOTION TO STAY BRIEFING AND CONSIDERATION ON PLAINTIFF TAITZ'S
MOTIONS IN LIMINE**

COMES NOW Kris W. Kobach, in his official capacity as Kansas Secretary of State (hereinafter the "Secretary"), by and through counsel Ryan A. Kriegshauser and moves this Court for a stay of briefing and consideration on the Motions in Limine written by Plaintiff Orly Taitz and received by the Secretary of State's Office on September 27, 2012, pending a determination on the Secretary's Motion to Dismiss. The Secretary is not asking for an Extension of Time pursuant to DCR 3.202(i), instead, the Secretary is requesting an indefinite stay until the jurisdictional issues already raised have been decided. The arguments and authorities stated in the Secretary's Motion to Dismiss and Motion to Stay the Preliminary Injunction Hearing, filed with the Court September 26, 2012, are incorporated by reference herein. In further support of his Motion, the Secretary states the following:

1. The Secretary received the Motions in Limine on September 27, 2012. The Court was aware of and spoke about the Motions in Limine in the September 28, 2012 Telephone Conference with the parties. Therefore, it appears that the Motions in Limine were sent to

chambers as required by DCR 3.202(e). However, the Motions in Limine have not appeared on the Case Docket sheet.¹ The Secretary's Office contacted the Court Clerk on October 10, 2012 and was informed that the Motions in Limine have not apparently been actually filed with the Clerk of the Court as required by K.S.A. § 60-205(c)(2)(A). As the Motions in Limine were improperly filed, response deadlines should not apply. Nothing in this Motion should be considered a waiver by the Defendant of the Plaintiff's noncompliance with the Kansas Rules of Civil Procedure, if such a waiver is even possible.

2. Even if the Motions in Limine were properly filed there, are serious jurisdictional issues which are still being briefed and have not been decided by the Court. On September 28, 2012 the Court continued the injunctive hearing from October 3, 2012, indefinitely to wait on a determination of jurisdictional issues. In the interest of judicial economy, the Court should also not entertain Motions in Limine on matters where standing and jurisdiction are in doubt for the same reasons stated in the Defendant's September 26th Motion to Dismiss and Motion to Stay. Likewise, the Court should stay the Motions in Limine until the Secretary's Motion to Dismiss is fully briefed and the matters of jurisdiction are decided. No hearing for a preliminary injunction is currently scheduled, therefore, the filing and determination on Motions in Limine are not yet appropriate. Depending on the Court's ruling on the Defendant's Motion to Dismiss, the Motions in Limine may not need to be decided.

3. Because the Motions in Limine were not properly filed, arguably the Defendant need not submit this Motion. However, the Defendant wants to be clear that he opposes the Motions in Limine and is filing this Motion to ensure that such opposition can be raised the if and when such motions become ripe.

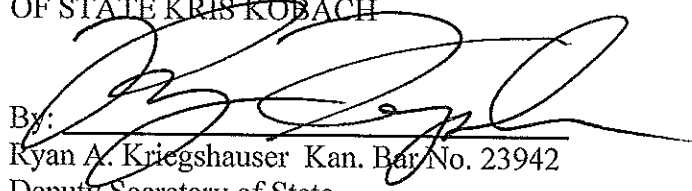
4. Based on the above, the Defendant respectfully requests that this Court stay the briefing schedule and consideration on the Motions in Limine pending a decision on the matters raised in the Secretary's Motion to Dismiss.

¹ Because of this, it does not appear that Plaintiff Taitz complied with K.S.A. 60-205(c)(2)(B) because she did not seek permission to file with the Judge or indicate that she was granted such permission.

Date: October 10, 2012

Respectfully submitted,

OFFICE OF KANSAS SECRETARY
OF STATE KRIS KOBACH

By: 

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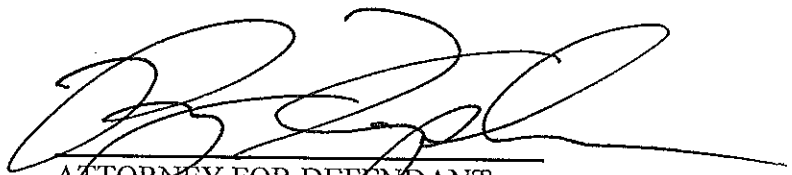
*Attorney for Defendant Kansas Secretary of
State*

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served on Plaintiff via U.S. mail, first class postage prepaid, or as indicated, to the following address, this 10th day of October, 2012.

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