

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE**

FRED HOLLANDER,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil No. 08-99-JL
	)	
JOHN McCain and	)	
THE REPUBLICAN NATIONAL COMMITTEE,	)	
	)	
Defendants.	)	
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**MOTION OF THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICE  
TO QUASH PLAINTIFF’S THIRD-PARTY SUBPOENA**

Pro se Plaintiff Fred Hollander filed a civil action against Senator John McCain and the Republican National Committee, asserting that because Senator McCain is not a naturally born citizen, he is ineligible to be President of the United States. Plaintiff served a third-party subpoena on the United States Citizenship and Immigration Service (“USCIS”) under Fed. R. Civ. P. 45, demanding that USCIS produce Senator McCain’s birth and citizenship certificates.

USCIS moves to quash this subpoena on several grounds. First, the subpoena is in an improper form, as it was not signed by the clerk of court or an attorney. Second, the subpoena was improperly served by certified mail rather than personal delivery. Third, the subpoena was issued prematurely as discovery has not opened. Fourth, Plaintiff failed to comply with the relevant Touhy regulations for seeking USCIS’ compliance with a third-party subpoena. Finally, the Privacy Act precludes compliance with the subpoena because the information sought is personal information maintained by a federal agency.

In support of this Motion, USCIS refers the Court to the Memorandum of Law in Support of USCIS' Motion to Quash, to the attached Declaration of Simon Nader, and to the record of this litigation.

Plaintiff has declined to concur in the relief sought by this Motion.

Therefore, USCIS requests that the Court grant this Motion and enter an order quashing Plaintiff's third-party subpoena.

Respectfully submitted,

THOMAS P. COLANTUONO  
United States Attorney

By: /s/ Seth R. Aframe  
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April 11, 2008

CERTIFICATE OF SERVICE

\_\_\_\_\_ I certify that on this 11th day of April 2008, the foregoing Motion and accompanying Memorandum of Law with attached exhibit was mailed via first-class, postage prepaid, mail to Fred Hollander, P.O. Box 6161, Nashua, New Hampshire 03063-6161, pro se plaintiff and via ECF to Charles G. Douglas, III, Esq., of Douglas, Leonard & Garvey, counsel for Defendants.

/s/ Seth R. Aframe  
Seth R. Aframe, AUSA