

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Post Office Box 193939, San Francisco, CA 94119-3939

Dr. Nira Schwartz dba Jaffa OptroniX

No: 07-55091

Plaintiff,

Lower Case No.: CV - 06-04010 DDP (JCx);

vs.

Plaintiff's Notice Of Motion and Motion to

United States Of America
Office of the US Attorney;

compel appellate court to provide me with
relief/ruling/just in accordance with its order
dated 3/5/07; incorporating by reference in this
motion, the dc motions filed on 2/14/07,

MIT Lincoln Laboratory known as
"MIT/LL";

3/14/07, and on 12/13/06 all provided in
instant Exhibit A; to have dc void its dismissed
Order entered on 12/15/2006 to get just relief
based on lower Court Oversight and Omission;
Mistakes; Inadvertence; Excusable Neglect;
Newly Discovered Evidence; Fraud, ETC.

Lawrence Livermore National
Laboratory known as "LLNL";

FRCP 60;

Aerospace Corporation known as
"AERO";

Defendants

Exhibit A 1-24 pages;

My Declaration;

Proof of service with Defendants' lawyers
Contact information;

1 appellate court did not have difficulties understanding my claims in my motion to it
2 filed on 2/15/07 (see Exhibit A page 22).

3 **F)** As a result of the appellate order dated **3/7/07**, a hearing day on my motion FRCP 60
4 was set in the dc for **3/12/07**. **The court notified me that the hearing day was set.** In
5 this motion I wrote: “I pray my requests be granted and the Court will correct/void the
6 Order and let me write a first amended Complaint”. But the Judge DDP refused to
7 see/hear me on **3/12/07**. I also got unpleasant treatment by his clerk. See Exhibit A
8 pages 1-24, especially pages 11-24.
9

10 **G)** On **3/14/07** I filed motion in the dc to compel the court to hearing me based on FRCP
11 60. My motion was based on Appellate order dated **3/7/07** and because FRCP 60 entitle
12 me to be heard and help the Judge understand my claims. But Judge DDP
13 rejected/vacated the hearing dates 3/12/07 and 4/16/07 stating he cannot understand
14 what I want. The Judge DDP did not have difficulties understanding my case
15 Complaint, as his dismissed Order entered 12/15/07 reflects. If Judge DDP did not
16 understand my writing, than he should not dismiss my case without allowing me rewrite
17 complaint. If Judge DDP does not understand my motions filed on 2/14/07 and 3/14/07
18 he would allow hearing me on my claims for “fraud upon the court” as the dc docket
19 provided on 3/12/07 and on 4/16/07. The Judge DDP is using his discretions in
20 prejudice, in violation of my federal rights, in unfair bias, all in the name of dismissing
21 the case, not in the name of providing just and fairness. The Judge is highly intelligent
22 and smart, and his vacating the hearing days that I am entitled to have, and hiding
23 behind statements such as: “unclear what relief, if any” I requested, is only additional
24 brick in the “fraud upon the court”. (See Exhibit A page 24).
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1 **H)** Therefore I incorporate Exhibits A (pages 1-24) motions as though they were file in this
2 instant court, I also reinstate my motion filed in this court on 2/15/07, because the dc
3 refused to comply with appellate order **3/7/07** and request the following:

- 4 1) Rule that I have complied with appellate order dated **3/7/07**;
- 5
- 6 2) Rule on my Motions identified in paragraph H above, and grant me requests for
7 relief as stated in these motions, and vacate order **12/15/07** and the procedures
8 taken as a result of “fraud upon the court”. After all if Jude DDP can not
9 understand what I want, and does not want to hear me on 3/12/07 and not on
10 4/16/07, so I can provide explanations to what the Honor Judge lack
11 understanding, I left with no options but to compel this court to rule on my
12 motions.
- 13 3) Appoint different dc Judge that will want to hear me, and have my day in court.
- 14 4) Reschedule timetable for my open brief to accommodate for that.
- 15
- 16 5) I pray my requests be granted and the Court will correct/void the Order entered
17 12/15/06 and let me write a first amended Complaint.

18 **I declare under penalty of perjury under the laws of the State of California that the**
19 **foregoing is true and correct, and Attachment is a true copy of my document.**

20 DATED: March 29, 2007

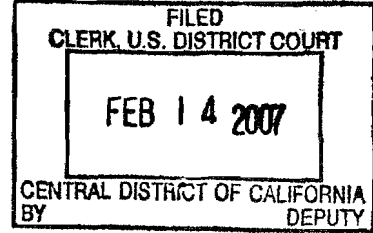
21 *Dr. Nira Schwartz*
22 BY: _____
23 Dr. Nira Schwartz
24 Plaintiff non-attorney in pro se
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Exhibit A

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Dr. Nira Schwartz dba Jaffa OptroniX
2550 PCH # 68
Torrance, CA 90505
TEL: (310) 326-6174
Email: nira7@aol.com



Plaintiff non-attorney in pro se

UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA

Dr. Nira Schwartz dba Jaffa OptroniX	)	CASE NO.: CV- 06-04010 DDP (JCx);
	)	[Appeal to the 9 th Circuit case 07-55091];
Plaintiff,)	
vs.	)	Plaintiff's Notice Of Motion and Motion
	)	with leave of the appellate court to reopen
1) United States Of America	)	case CV- 06-04010 DDP (JCx) to correct
Office of the US Attorney, Civil	)	dismissed Order entered on 12/15/2006 to get
Process Clerk, 7 th FL. 300 N. Los	)	just relief based on Court Oversight and
Angeles St., Los Angeles, CA 90012	)	Omission; Mistakes; Inadvertence; Excusable
	)	Neglect; Newly Discovered Evidence; Fraud,
2) MIT Lincoln Laboratory	)	ETC. FRCP 60;
known as "MIT/LL", At: 244)	
Wood Street, Lexington, MA	)	My Declaration;
02420-9108)	
)	
3) Lawrence Livermore National	)	Proof Of Service
Laboratory known as "LLNL",)	
At: 7000 East Ave., Livermore,	)	JUDGE: DDP [Hon. Dean D. Pregerson]
CA 94550	)	Date: March 12, 2007
	)	Time: 10:a.m.
4) Aerospace Corporation known)	COURTROOM: 3
as "AERO" At: 2350 East El)	
Segundo Blvd. El Segundo,)	
CA90245-4691)	
Defendants)	

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DECLARATION - IN SUPPORT OF INSTANT MOTION

Notice to the Hon. Court and to the Defendants. Please make a note that on 3/12/2007 the Court will rule on my:

“Plaintiff’s Notice Of Motion and Motion with leave of the appellate court to reopen CV-06-04010 DDP (JCx) case to correct dismissed Order entered on 12/15/2006 to get just relief based on Court Oversight and Omission; Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud, ETC. FRCP 60; My Declaration;”

If I made a mistake the Court is requested to liberally read it and grant me my request.

A) The Court and its officers are requested to correct/void Order entered on 1/15/2006 based on and arising from Court Officers Oversight and Omission; Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud, ETC. FRCP 60; (see Docket # 29, hereafter: Order) as follows:

- 1) My instant Motion is filed properly; The Order is on appeal to the 9th Circuit case 07-55091; This Motion with **leave** of the appellate court is proper along FRCA 60 and the Court has the power to correct and/or void the Order.
- 2) I Have provided true and correct facts supported by documents: The Order (Id. 8:21-25) alleged: “it need not accept as true unreasonable inferences or allegations of facts” and dismissed my case. This dismissal is: (a) in contradiction to facts supported by Attachments A; (b) in contradiction to definitions and references made in my Complaint; (c) in contradiction to Court of Federal Claims Orders and opinions; (Court of Federal Claims legal documents are presented by Docket # 19, 21 as Exh. # 1-11 and Exh. # A-F; Attachment A Entered on 11/13/2006 and is presented as a “true and correct copies of pleadings and orders filed in the cited actions” presented by Docket # 25 and #26). As stated here:

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- i. The Defendants are identified properly in the Complaint: This Order alleged inability to: “determine what claims are made against which defendants” (**Id. 9:1-5**). This is in contradiction to the Complaint ¶ 7 and I quote: “Plaintiff is informed and believes and thereon alleges that Defendants together and independently in doing the things alleged herein... which they knew and intended would have detrimental and injurious and damaging effects in this State”, and “all reference made to “Defendants” shall include said Defendant (1), (2), (3) and (4) together and each of them independently”. I asked to correct that and get a relief from that.
- ii. I have restricted the Intellectual Property (IP): This Order alleged that: “ Here, it does not appear that the plaintiff offered her intellectual property to the government or defendants with the understanding that it would be held in confidence. The Plaintiff does not offer facts indicating that her “intellectual property” was provided with restriction” (**Id. 11:11-23**). This statement has no merit and in contradiction (a) to me “marking Plaintiffs *intellectual-property* with “Dr. N. Schwartz copyright and proprietary information” “ (Complaint ¶¶ 95); (b) to me “*instructions* in writing the Defendants and the POET to safe guard the and not disseminate the information” (Complaint ¶¶ 95); (c) to me providing the Court with copies of my instructions in writing on 09/17/98, 09/22/98, and 09/25/98 to DOJ Attorney Egan requesting not to disseminate IP; and (d) to me providing the Court with copies of 10/09/98 instructions by Special Agent Sam Reed on my behalf instructing Dr. Ming Tsai (Poet Leader) to safeguard and not disseminate IP. See my Response in Opposition ¶¶ 53, 54, 55, 56 Docket # 25, 26 and Attachment A pages page 24, 25-28); I asked to correct that and get relief from that.

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iii. My IP is well defined; This Order alleged that: “ the complaint does not define the plaintiff’s alleged intellectual property or trade secret with the requisite specificity” (**Id. 12:22-24**). This statement has no merit and in contradiction to (a) the Order itself (**Id. 4:23-28**); (b) in contradictions to Court of Federal Claims Opinions dated 12/29/03, which accepted the IP definition. See entire Exh. #2 filed by the Defendants Docket # 19 and its first par. on page (**Id. 19:3-7**); (c) in contradiction to my providing the Court with definition of my copyrighted IP and with true and accurate copies of the copyrighted IP and its certificates of registration. See Complaint ¶¶ 48(a)-(g) and Attachment A page 30-42, 83-103, 104-119, 120-121; (d) in contradiction to my providing the Court with the IP ideas and what the ideas are for, and how they will perform. See my Response in Opposition ¶¶ 46-52, 60 Docket # 25, 26. and the relevant references made to Attachment A; (e) in contradiction to the fact that a person knowledgeable in the art can understand the IP with requisite specificity to produce “counter reports” as the Poet did, and in contradiction to my providing the Court with copies of the Poet “counter reports” that were provided based on their understanding the IP with requisite specificity. Attachment A, pages 65-80, 128-142, 143-151; See Complaint ¶¶ 16, 48. I asked to correct that and get relief from that.

iv. I have exclusive right to posses or control the IP. This Order alleged that the complaint: “ nor does it allege any facts showing that the plaintiff had the exclusive right to possess or control that property” (**Id. 12:24-27**). This statement has no merit and in contradiction to (a) the fact that I have provided the Court Officers with true and accurate copies of the IP copyrighted Certificates of Registration that I have exclusive right to that IP. Neither court officer provided documents to contradict that. Attachment A pages 65-80, 128-142, and 143-151;

1 (b) in contradiction to Court of Federal Claims Opinions date 12/29/2003 that I
2 authored the IP and therefore has exclusive right to it and I quote: "Plaintiffs allege
3 that Dr. Schwartz authored "13 reports between 1996 and 1999 and thousands of
4 pages of analysis and recommendations" for the government. Compl. ¶13(f).
5 These reports included flight test data analysis, technology concepts and test
6 procedures. *Id.* Defendant does not contest Dr. Schwartz's authorship in these
7 works" (highlighted added). See Exh. #2 filed by the Defendants Docket # 19 and
8 its first par. on page 19; (c) in contradiction to Court of Federal Claims Opinions
9 date 12/29/2003 that: " this court has already determined that the government did
10 not enter into an enforceable agreement with Dr. Schwartz that would provide
11 compensations for the use of Dr. Schwartz's works." The Consulting agreement
12 between the Government and me was not valid, because there was no valid
13 contractual relationship between the government and me. Which leave my IP clean
14 without any one legal claim to it, and give me the exclusive right to my IP, and
15 established the fact that the government made use of it. See Exh. #2 page 5 par B,
16 page 9 par.1, page 17 par 8(a), page 18 top par. Complaint ¶¶ 64, 67, 77, 89, 100.
17 I have a valid a claim against all defendants for Breach Of Trust and Confidence
18 and Abuse Of Powers, for Conversion of "Intellectual Property" or Trade Secret
19 Miss appropriation and more. I asked to correct that and get relief from that.

20
21 v. In 2003 I exhausted Administrative remedies along 28 U.S.C. § 2675(a) for tort
22 claims against the Government: This Order alleged that: " Accordingly, the Court
23 finds that Dr. Schwartz has not exhausted her administrative remedies and thus her
24 FTCA claim must be dismissed for lack of subject matter jurisdiction". This
25 statement is in contradiction to (a) Court of Federal Claims Opinions date
26 12/29/2003. See entire Exh. #2, that established the fact that the Government was
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1 already served with the instant tort claims in 2003 by serving it with cases 03-37C
2 and 03-786C complaints. It is a re-filing in D.C. court the same tort claims. See
3 Exh. 1-11 and Exh. A-F (identified above). Order dismissing instant complaint
4 **(Id. 6:1-22)** for allege failure to comply with 28 U.S.C. § 2675(a). When this law
5 does not provide for dismissal of complaint for tort claims cases that were
6 previously filed in another court, such as Court of Federal Claims; **(b)** It is in
7 contradiction to the fact that I have notified the court officers and employees that
8 instant tort claims were previously filed with the Court of Federal Claims in 2003
9 (Complaint ¶¶ 11, 17). I have submitted to this court “**UNITED STATES**
10 **DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA CIVIL**
11 **COVER SHEET**”. On this Form I have answered the question: “**VIII(a)** .
12 **IDENTICAL CASES:** Has this action been previously filed and dismissed,
13 remanded or closed? If yes list case, list case number,(s):” and my answer was:
14 “Washington Court of Claims case 03-37C Judge Bush; Dismissed for lack of
15 Jurisdiction”. My Response in Opposition ¶ 7, 66-88, and references made in it to
16 Attachment A; and **(c)** It is in contradiction to the fact the Order page 1 foot note¹
17 indicates awareness of Exh. 1-11 and Exh. A-F. I asked to correct that and get
18 relief from that.
19

- 20 **vi.** I have valid Copyright claims and fraud against all Defendants not just against the
21 Government as dismiss order in error isolated (Id. 7:4-12): Because **(a)** I am the
22 author of the IP with exclusive right to the IP and control it; **(b)** I have provided
23 the Court officers with a copy of tampered IP made by the Defendants. See
24 Attachment A pages 65-80, 128-142, 143-151; **(c)** I put restrictions on my IP; **(d)** I
25 copyrighted portions of the IP; **(e)** The Defendants tampered and fraudulent the IP
26 and I have provided the Court with a copy of the tampered IP made by the
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1 Defendants; (f) I provided names of the Defendants that committed the fraud and
2 the time the fraud was committed, the place where the fraud was committed and the
3 Defendants' economical reasons to commit the fraud of rob/infringe/tamper
4 /fraudulent/disseminate/use/falsely classify my copyrighted IP. See My Response
5 in Opposition ¶¶ 64-85, and Complaint ¶¶ 21, 24, 37, 38, 47, 113, 114; The Court
6 and its officers' dismissal of this case, have provided the Defendants with the right to
7 break the law, and get away with it, making them part of the fraud. I asked to
8 correct that and get relief from that.

9
10 **vii.** The Court officers only communicate with each other. The Court filed the
11 Defendants MIT, LLNL and Aero Reply to my Opposition (Docket # 28), and
12 considered the Reply information in its Order to Dismiss. I had informed the Court
13 officers by many motions on 12/14/2006 and on 12/28/2006 that I had not
14 received this Reply document. I requested to stop the Court officers' procedures
15 and allow me to get the document and respond to it. But instead the Court officers
16 mailed back to me the motions, and entered the dismissed Order on 12/15/2006.
17 The Docket, and Docket # 31 failed to record the entire list of my motions that
18 were returned to me, concealing the fact that I complained on time and properly to
19 the fact that I was not served with the Reply. I asked to correct that and get relief
20 from that.

21
22 **viii.** Documents were presented to the court with the reasons for non-intervention in
23 prior qui-tam case. The Order page 10-foot note⁷ alleged: "The plaintiff appears to
24 be seeking a declaration that her qui tam case was improperly dismissed.
25 However, this Court does not have the authority to review the merits of the
26 dismissal". In My Response In Opposition ¶¶ 4, 20, 45, 59, 78, 80, 81, 84 and the
27 relevant references made to Attachment A in these paragraphs, I have provided
28

1 Government documents to the reasons of non-intervention. The dismissal when
2 the facts provided in documents, puts the Court and its officers as a party to the
3 case and not acting impartially and lawfully. I asked to correct that and get relief
4 from that.

5 ix. The Order contradicts Judge RSWL Order entered July 17, 2006 "**Different case**
6 **with different Defendants and claims**". See My Response In Opposition ¶¶ 31,
7 32, 37, 40, 78, 80. No Res Judicata and Collateral Estoppel can be applied without
8 being in contradictions to this order presented in Attachment A page 1. I asked to
9 correct that and get relief from that.

10
11 3) All of the above, and more are making the Court officers and employees a party to the
12 case, to abuse and allow breach of the law, instead of acting impartially and lawfully.
13 All in correlation and harmony for "**Fraud upon the court**". To falsely stage the
14 ground to dismiss the case. People v. Zajic, 88 Ill.App.3d 477, 410 N.E.2d 626
15 (1980), and Bulloch v. United States, 763 F.2d 1115, 1121 (10th Cir. 1985), and
16 Kenner v. C.I.R., 387 F.3d 689 (1968); "a decision produced by fraud upon the court
17 is not in essence a decision at all, and never becomes final." And "Fraud upon the
18 court" **makes void the orders and judgments of that court**". Allen F. Moore v.
19 Stanley F. Sievers, 336 Ill. 316; 168 N.E. 259 (1929). And People of the State of
20 Illinois v. Fred E. Sterling, 357 Ill. 354; 192 N.E. 229 (1934). I asked to correct that
21 and get relief from that.

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23 4) I am entitled to WRIT OF ERROR - A writ issued out of a court of competent
24 jurisdiction, directed to the judge of a court of record in which final judgment has
25 been given, and commanding them, in some cases, themselves to examine the record;
26 in others to send it to another court of appellate jurisdiction, therein named, to be
27 examined in order that some alleged error in the proceeding may be corrected. I
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request the Court Officers to read my documents. I asked to correct that and get relief from that.

5) I am entitled to AUDITA QUERELA – Because I have not received the Reply; and/or because the Court officers failed to mail it; and because they failed to correct it; and because they acted to prevent me from correcting it by throwing my motions out of court. I request hearing in open Court. I request the Court Officers to read my documents. I asked to correct that and get relief from that.

6) I pray my requests be granted and the Court will correct/void the Order and let me write a first amended Complaint.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and Attachment is a true copy of my document.

DATED: February 13, 2007

BY: Dr. Nira Schwartz
Dr. Nira Schwartz
Plaintiff non-attorney in pro se

9

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 NIRA SCHWARTZ WOODS, Richard Woods, and we do swear or declare that on this
4 date, as required by Supreme Court Rule 29, our address is 2550 PCH # 68, Torrance, California
5 90505.

6 On February 13, 2007, we served the foregoing document described as:
7 **CASE NO.: CV - 06-04010 DDP (JCx); Appeal to the 9th Circuit case 07-55091;**

8 **Plaintiff's Notice Of Motion and Motion with leave of the appellate court to reopen case CV-**
9 **06-04010 DDP (JCx) to correct dismissed Order entered on 12/15/2006 to get a just relieve**
10 **based on Court Oversight and Omission; Mistakes; Inadvertence; Excusable Neglect; Newly**
11 **Discovered Evidence; Fraud, ETC. FRCP 60; My Declaration; Proof Of Service**

12 on Defendants parties in this action by placing a true and correct copy thereof, enclosed in a sealed
13 envelope **BY FIRST CLASS MAIL** addressed as follows:

- 14 1) Debra Wong Yang, Jonathan B. Klinck – US Attorney
15 Federal Building, suite 7516, Civil Process Clerk,
16 300 N. Los Angeles Street,
17 Los Angeles, California 90012
- 18 2) James J. Gallagher, Mana Elihu –Defendants Attorneys
19 McKenna Long & Aldridge LLP,
20 444 South Flower Street, 8th Floor,
21 Los Angeles, CA 90071-2901
- 22 3) Office Of the Clerk,
23 Central District Of California,
24 Filing in Pro-se Room 526
25 312 N. Spring Street, Los Angeles, CA 90012

26 Executed on February 13, 2007, at Los Angeles, California.

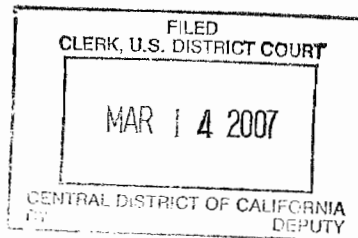
27 *R. Woods*

28 _____
Richard Woods

Dr. Nira Schwartz

Plaintiff Schwartz

1 Dr. Nira Schwartz dba Jaffa OptroniX
2 2550 PCH # 68
3 Torrance, CA 90505
4 TEL: (310) 326-6174
5 Email: nira7@aol.com



6 Plaintiff non-attorney in pro se

7
8 UNITED STATES DISTRICT COURT FOR THE
9 CENTRAL DISTRICT OF CALIFORNIA

10 Dr. Nira Schwartz dba Jaffa OptroniX)
11 Plaintiff,)

12 vs.)

13) **1) United States Of America**
14 **Office of the US Attorney, Civil**)
15 **Process Clerk, 7th FL. 300 N. Los**)
16 **Angeles St., Los Angeles, CA 90012**)

17) **2) MIT Lincoln Laboratory**)
18 **known as "MIT/LL", At: 244**)
19 **Wood Street, Lexington, MA**)
20 **02420-9108**)

21) **3) Lawrence Livermore National**)
22 **Laboratory known as "LLNL",**)
23 **At: 7000 East Ave., Livermore,**)
24 **CA 94550**)

25) **4) Aerospace Corporation known**)
26 **as "AERO" At: 2350 East El**)
27 **Segundo Blvd. El Segundo,**)
28 **CA90245-4691**)
Defendants)

CASE NO.: CV- 06-04010 DDP (JCx);
[9th Circuit Appeal case 07-55091];
Plaintiff's Notice Of Motion and Motion
Complying with Appellate Court Order
dated 3/7/2007:
1) To Compelling hearing on my motion
filed on 2/14/2007 [docket # 43] in
accordance with FRCP 60;
2) To void Order filed 12/14/2006 in
accordance with "Fraud upon the Court"
3) To resubmit during the hearing back to
the court all my legal filing it rejected
Attachment A;
My Declaration;
Proof Of Service
JUDGE: DDP [Hon. Dean D. Pregerson]
Date: April 16, 2007
Time: 10:a.m.
COURTROOM: 3

1 Court in an email, and by Docket # 43 to be heard today". Mr. Chambers said: "the
2 Judge will never hear you again because the case (06-4010DDP) is closed". I told Mr.
3 Chambers: "FRCP 60 allows me to be heard and I was instructed by the Court to
4 appear today". I also asked Mr. Chamber to validate on his computer my claim to be
5 heard, and to review docket # 43. Mr. Chamber did that and said that he does not know
6 what is going on, and that: " if you have a problem you should go to the appeal court.
7 The Judge is never going to hear you". The Clerk refused to provide me with the
8 spelling of his name, and said: "go to the internet for the correct spelling". There was
9 no customer in line in front of the clerk. I was the only person.

10
11 **F)** During the hearing requested, I wish to give back to the court all filing that were on
12 time and in compliance with the law FRCP 60 and other laws it rejected. Such example
13 of filing is provided in instant Attachment A page 3, 4, and 5 rejected on 12/15/2006.
14 Additional documents I wish to return back to the court on the hearing day are stamped
15 "Received but not filed" on: 12/12/ 2006, 12/19/2006, 12/22/2006, and 12/28/2006.

16 **G)** The Court communicates only with the Defendants, refused to read my documents,
17 refuses to comply with FRCP 60, refuse to hear me and give me a day in court, and
18 ignores my commanding it to review its mistakes.

19
20 **H)** This case is where the court or a member is corrupted or influenced or influence is
21 attempted or where the judge has not performed his judicial function --- thus where the
22 impartial functions of the court have been directly corrupted. This fraud upon the court
23 is emphasized by the 9th Circuit order 3/7/2007.

24 **I)** I request to grant instant motion, and motion filed on 2/14/2007 (docket # 43)
25 incorporated here by reference.
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1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct, and Attachment A is a true copy of my document.

3 DATED: March 13, 2007

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5 BY: Dr. Nira Schwartz
6 Dr. Nira Schwartz
7 Plaintiff non-attorney in pro se
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Attachment A

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AOL now offers free email to everyone. Find out more about what's free from AOL at AOL.com.

Forwarded Message:

Subj: Summary of ECF Activity
Date: 3/3/2007 12:07:57 AM Pacific Standard Time
From: cacd_ecfmail@cacd.uscourts.gov
To: ecfnef@cacd.uscourts.gov
Sent from the Internet (Details)

Activity has occurred in the following cases:

2:06-cv-04010-DDP-JC Nira Schwartz v. United States of America et al
Motion for Leave 43

Docket Text:

NOTICE OF MOTION AND MOTION for Leave to reopen case to correct dismissed order entered 12/15/06 filed by plaintiff Nira Schwartz. Motion set for hearing on 3/12/2007 at 10:00 AM before Judge Dean D. Pregerson. (bp,)

		(bp,) (Entered: 02/20/2007)
02/14/2007	43	NOTICE OF MOTION AND MOTION for Leave to reopen case to correct dismissed order entered 12/15/06 filed by plaintiff Nira Schwartz. Motion set for hearing on 3/12/2007 at 10:00 AM before Judge Dean D. Pregerson. (bp,) (Entered: 03/02/2007)
02/15/2007	40	MINUTES OF IN CHAMBERS ORDER held before Judge Dean D. Pregerson : Counsel and parties are notified that on the court's own motion the plaintiff's motion with leave of the appellate court to reopen (filed on 2/14/07) set for 3/12/07 at 10:00 a.m. is hereby VACATED.Court Reporter: None present. (bp,) (Entered: 02/15/2007)
02/20/2007	42	SECOND AMENDED NOTICE OF APPEAL to 9th CCA filed by Plaintiff Nira Schwartz. Amending Appeal to Circuit Court, 35, In Chambers Order/Directive - no proceeding held, 40 Filed On: 2/15/07; Entered On: 2/15/07; cc: Dr. Nira Schwartz; Jonathan B. Klinck, United States Attorney; James J. Gallagher (car,) Modified on 2/23/2007 (car,). (Entered: 02/23/2007)
02/23/2007		Transmission of Second Amended Notice of Appeal and Docket Sheet to US Court of Appeals re: Second Amended Notice of Appeal to Circuit Court, 42 (car,) (Entered: 02/23/2007)

PACER Service Center			
Transaction Receipt			
03/10/2007 09:55:08			
PACER Login:	ni0172	Client Code:	
Description:	Docket Report	Search Criteria:	2:06-cv-04010-DDP-JC Start date: 12/14/2006 End date: 3/10/2007
Billable Pages:	3	Cost:	0.24

1 Dr. Nira Schwartz dba Jaffa OptroniX
2 2550 PCH # 68
3 Torrance, CA 90505
4 TEL: (310) 326-6174
5 Email: nira7@aol.com

6 Plaintiff non-attorney in pro se

7
8 UNITED STATES DISTRICT COURT FOR THE
9 CENTRAL DISTRICT OF CALIFORNIA

10 Dr. Nira Schwartz dba Jaffa OptroniX)
11 2550 PCH # 68, Torrance, CA 90505)

CASE NO.: CV - 06-04010 DDP (JCx)

12)
13 Plaintiff,)

Plaintiff's Motion to:

14 vs.)

(1) Vacate/remove the REPLY

15 1) **United States Of America**)
16 **Office of the US Attorney, Civil**)
17 **Process Clerk, 7th FL. 300 N. Los**)
18 **Angeles St., Los Angeles, CA 90012**)

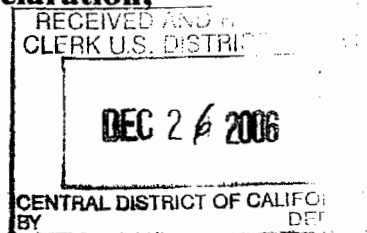
Memorandum of points and authorities
in support of MOTION to Dismiss Case
[20] filed by defendants' MIT Lincoln
Laboratory, Lawrence Livermore
National Laboratory, Aerospace
Corporation (Entered: 12/13/2006)"

19 2) **MIT Lincoln Laboratory** known as)
20 **"MIT/LL", At: 244 Wood Street,**)
21 **Lexington, MA 02420-9108**)

(2) Plaintiff's Declaration;

22 3) **Lawrence Livermore National**)
23 **Laboratory known as "LLNL", At:**)
24 **7000 East Ave., Livermore, CA**)
25 **94550**)

Proof of service;



26 4) **Aerospace Corporation** known as)
27 **"AERO" At: 2350 East El Segundo**)
28 **Blvd. El Segundo, CA90245-4691**)

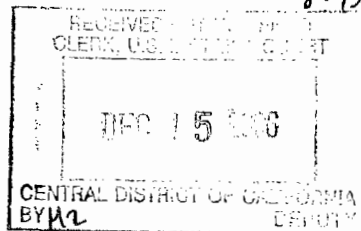
JUDGE: DDP [Hon. Dean D. Pregerson]

DATE: January 15, 2007

TIME: 10:00 a.m.

COURTROOM: 3

Defendants)



18 3

1 **Notice to the Court and the Defendants:**

2 Today 12/14/06 I was served by Email with the Docket entry # 28.

3
4 I was NOT served with the REPLY Memorandum of points and authorities in support of
5 MOTION to Dismiss Case [20] filed by defendants' MIT Lincoln Laboratory, Lawrence
6 Livermore National Laboratory, Aerospace Corporation.

7
8 **DECLARATION**

9 (a) I am the plaintiff in this action.

10
11 (b) On 12/13/2006 the Hon. Court entered as Docket # 28 and I quote:

12 "12/04/2006 28 REPLY Memorandum of points and authorities in support of
13 MOTION to Dismiss Case [20] filed by defendants' MIT Lincoln Laboratory,
14 Lawrence Livermore National Laboratory, Aerospace Corporation. (bp,)
(Entered: 12/13/2006)"

15 (c) Till today I was not served with this document.

16
17 The Hon. Court is request to Vacate/remove this documents and to decline incorporate it
18 in its decisions, and/or consider its contents.

19
20
21 **I declare under penalty of perjury under the laws of the State of California that the**
22 **foregoing is true and correct.**

23 DATED: December 14, 2006

24
25
26 BY: Dr. Nira Schwartz
27 Dr. Nira Schwartz
28 Plaintiff non-attorney in pro se

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 NIRA SCHWARTZ WOODS, Richard Woods, and we do swear or declare that on this date,
4 as required by Supreme Court Rule 29, our address is 2550 PCH # 68, Torrance, California 90505.

5 On December 14, 2006, we served the foregoing document described as:

6 **Plaintiff's Motion to:**

7 **(1) Vacate/remove the REPLY Memorandum of points and authorities in support of**
8 **MOTION to Dismiss Case [20] filed by defendants' MIT Lincoln Laboratory,**
9 **Lawrence Livermore National Laboratory, Aerospace Corporation (Entered:**
10 **12/13/2006)"**

11 **(2) Plaintiff's Declaration;**

12 on Defendants parties in this action by placing a true and correct copy thereof, enclosed in a sealed
13 envelope **BY FIRST CLASS MAIL** addressed as follows:

14 1) Debra Wong Yang, Jonathan B. Klinck – US Attorney
15 Federal Building, suite 7516, Civil Process Clerk,
16 300 N. Los Angeles Street,
Los Angeles, California 90012

17 2) James J. Gallagher, Mana Elihu –Defendants Attorneys
18 McKenna Long & Aldridge LLP,
19 444 South Flower Street, 8th Floor,
Los Angeles, CA 90071-2901

20 3) Office Of the Clerk,
21 Central District Of California,
22 Filing in Pro-se Room 526
23 312 N. Spring Street, Los Angeles, CA 90012

24 Executed on December 14, 2006, at Los Angeles, California.

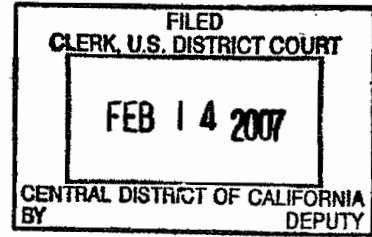
25 *R. Woods*
26 *R. Woods*
27 Richard Woods

Dr. Nira Schwartz
Dr. Nira Schwartz
Plaintiff Schwartz

20

(5)

1 Dr. Nira Schwartz dba Jaffa OptroniX
2 2550 PCH # 68
3 Torrance, CA 90505
4 TEL: (310) 326-6174
5 Email: nira7@aol.com



6 Plaintiff non-attorney in pro se

7
8 UNITED STATES DISTRICT COURT FOR THE
9 CENTRAL DISTRICT OF CALIFORNIA

10	Dr. Nira Schwartz dba Jaffa OptroniX	)	CASE NO.: CV- 06-04010 DDP (JCx);
11		)	[Appeal to the 9 th Circuit case 07-55091];
12	Plaintiff,)	
13	vs.	)	Plaintiff's Notice Of Motion and Motion
14		)	with leave of the appellate court to reopen
15	1) United States Of America	)	case CV- 06-04010 DDP (JCx) to correct
16	Office of the US Attorney, Civil	)	dismissed Order entered on 12/15/2006 to get
17	Process Clerk, 7 th FL. 300 N. Los	)	just relief based on Court Oversight and
18	Angeles St., Los Angeles, CA 90012	)	Omission; Mistakes; Inadvertence; Excusable
19		)	Neglect; Newly Discovered Evidence; Fraud,
20	2) MIT Lincoln Laboratory	)	ETC. FRCP 60;
21	known as "MIT/LL", At: 244)	
22	Wood Street, Lexington, MA	)	My Declaration;
23	02420-9108)	
24)	
25	3) Lawrence Livermore National	)	Proof Of Service
26	Laboratory known as "LLNL",)	
27	At: 7000 East Ave., Livermore,	)	JUDGE: DDP [Hon. Dean D. Pregerson]
28	CA 94550	)	Date: March 12, 2007
		)	Time: 10:a.m.
	4) Aerospace Corporation known	)	COURTROOM: 3
	as "AERO" At: 2350 East El)	
	Segundo Blvd. El Segundo,)	
	CA90245-4691)	
	Defendants)	

21

6

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If you view the full docket online, you will be charged for 4 Pages \$ 0.32

US Court of Appeals for the Ninth Circuit Case Summary

Court of Appeals Docket #: 07-55091 Filed: 1/23/07
 Nsuit: 2830 Patent (USdf)
 Schwartz v. USA, et al
 Appeal from: Central District of California, Los Angeles

Lower court information:

District: 0973-2 : CV-06-04010-DOC
 presiding judge: Dean D. Pregerson, District Judge

1/23/07 DOCKETED CAUSE AND ENTERED APPEARANCES OF APPELLANT IN PRO SE AND COUNSEL FOR APPELLEES. CADS SENT (Y/N): n. setting schedule as follows: appellant's designation of RT is due 1/16/07; appellee's designation of RT is due 1/24/07,, ; appellant shall order transcript by 2/5/07; court reporter shall file transcript in DC by 4/23/07; certificate of record shall be filed by 4/30/07; appellant's opening brief is due 6/11/07; appellees' brief is due 7/11/07; appellants' reply brief is due 7/25/07; [07-55091] (bg) [07-55091]

1/31/07 Received copy of amended notice of appeal from district court filed: 1/25/07. (pro se unit) (lu) [07-55091]

2/15/07 Filed Appellant Nira Schwartz's motion to file a FRCivP 60(b) mtn in this court; served on 2/13/07.(PRO SE)[6096099] [07-55091] (bb) [07-55091]

2/23/07 Received copy of SECOND amended notice of appeal from district court led: 2/20/07. (pro se unit) (lu) [07-55091]

3/5/07 Sent Notice of Referral to district court. [07-55091] (jlc) [07-55091]

3/7/07 Filed order (Appellate Commissioner) Aplt's motion to file a Fed. R. Civ. P.(b) motion in this court is denied without prejudice to filing the motion in the dc. [6096099-1] To the extent aplt seeks summary reversal of the dc's 12/14/06 order granting defendants' motion to dismiss, the request is denied. The time schedule for this appeal, established on 1/23/07, remains in effect. (PROSE) [07-55091] (bb) [07-55091]

PACER Service Center			
Transaction Receipt			
03/13/2007 06:57:53			
PACER Login:	ni0172	Client Code:	
Description:	dkt summary	Case Number:	07-55091
Billable Pages:	1	Cost:	0.08

22

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 NIRA SCHWARTZ WOODS, Richard Woods, and we do swear or declare that on this date,
4 as required by Supreme Court Rule 29, our address is 2550 PCH # 68, Torrance, California 90505.

5 On March 13, 2007, we served the foregoing document described as:
6 **CASE NO.: CV - 06-04010 DDP (JCx); Appeal to the 9th Circuit case 07-55091;**

7 **Plaintiff's Notice Of Motion and Motion Complying with Appellate Court Order**
8 **dated 3/7/2007:**

- 9 1) To Compelling hearing on my motion filed on 2/14/2007 [docket # 43] in accordance
 - 10 with FRCP 60;
 - 11 2) To void Order filed 12/14/2006 in accordance with "Fraud upon the Court"
 - 12 3) To resubmit during the hearing back to the court all my legal filing it rejected
- 13 **Attachment A; My Declaration; Proof Of Service;**

14 on Defendants parties in this action by placing a true and correct copy thereof, enclosed in a sealed
15 envelope **BY FIRST CLASS MAIL** addressed as follows:

- 16 1) Debra Wong Yang, Jonathan B. Klinck – US Attorney
Federal Building, suite 7516, Civil Process Clerk,
300 N. Los Angeles Street, Los Angeles, California 90012
- 17 2) James J. Gallagher, Mana Elihu –Defendants Attorneys
McKenna Long & Aldridge LLP,
18 444 South Flower Street, 8th Floor, Los Angeles, CA 90071-2901
- 19 3) Office Of the Clerk,
20 Central District Of California,
21 Filing in Pro-se Room 526, 312 N. Spring Street, Los Angeles, CA 90012

22 Executed on March 13, 2007, at Los Angeles, California.

23 *R. Woods*
24 *R. Woods*
25 Richard Woods

24 *Dr. Nira Schwartz*
25 *Dr. N.*
26 Plaintiff Schwartz

23

JS

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES -- GENERAL

<input type="checkbox"/>	Priority
<input checked="" type="checkbox"/>	Send
<input checked="" type="checkbox"/>	Clsd
<input type="checkbox"/>	Enter
<input type="checkbox"/>	JS-5/JS-6
<input type="checkbox"/>	JS-2/JS-3
<input type="checkbox"/>	Scan Only

Case No. CV 06-04010 DDP (JCx)

Dated: March 26, 2007

Title: DR. NIRA SCHWARTZ dba Jaffa OptroniX -v- UNITED STATES OF AMERICA
OFFICE OF THE US ATTORNEY; MIT LINCOLN LABORATORY; LAWRENCE
LIVERMORE NATIONAL LABORATORY; AEROSPACE CORPORATION

PRESENT: HONORABLE DEAN D. PREGERSON, JUDGE

John A. Chambers
Courtroom Deputy

None Present
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS:

ATTORNEYS PRESENT FOR DEFENDANTS:

None

None

PROCEEDINGS: MINUTE ORDER (IN CHAMBERS)

COUNSEL AND PARTIES ARE NOTIFIED that a document entitled, "MOTION
COMPLYING WITH APPELLATE COURT ORDER DATED 3/7/07 FILED BY PLAINTIFF NIRA
SCHWARTZ (FILED ON 03-14-07)", was received and filed. The Court notes that, although the
document has been accepted for filing, the Court takes no further action, because it is unclear
what relief, if any, is being requested therein. Therefore, the noticed motion set for April 16, 2007
at 10:00 a.m., is hereby VACATED.

DOCUMENTED ON CM	
MAR 28 2007	
BY	<i>JS</i> 053

MINUTES FORM 11
CIVIL - GEN

Initials of Deputy Clerk

JS

46

24

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

NIRA SCHWARTZ WOODS, Richard Woods, and we do swear or declare that on this date, as required by Supreme Court Rule 29, our address is 2550 PCH # 68, Torrance, California 90505.

On March 29, 2007, we served the foregoing document described as:

No: 07-55091; Lower Case No.: CV - 06-04010 DDP (JCx);

Plaintiff’s Notice Of Motion and Motion to compel appellate court to provide me with relief/ruling/just in accordance with its order dated **3/5/07**; incorporating by reference in this motion, the dc motions filed on 2/14/07, 3/14/07, and on 12/13/06 all provided in instant Exhibit A; to have dc void its dismissed Order entered on 12/15/2006 to get just relief based on lower Court Oversight and Omission; Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud, ETC. FRCP 60;

Exhibit A 1-24 pages;

My Declaration;

on Defendants parties in this action by placing a true and correct copy thereof, enclosed in a sealed envelope **BY FIRST CLASS MAIL** addressed as follows:

- 1) Debra Wong Yang, Jonathan B. Klinck – US Attorney [one copy]
Federal Building, suite 7516, Civil Process Clerk,
300 N. Los Angeles Street, Los Angeles, California 90012
- 2) James J. Gallagher, Mana Elihu –Defendants Attorneys [one copy]
McKenna Long & Aldridge LLP,
444 South Flower Street, 8th Floor, Los Angeles, CA 90071-2901
- 3) United States Court Of Appeals [Original + four copies]
For the Ninth Circuit
Post Office Box 193939, San Francisco, CA 94119-3939

Executed on March 29, 2007, at Los Angeles, California.

R. Woods

Dr. Nira Schwartz

Richard Woods

Plaintiff Schwartz