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WEDNESDAY, AUGUST 13, 2008 7:00:00 AM

Calif. lawsuit challenges McCain candidacy

BY CHRIS RIZO

SAN FRANCISCO (Legal Newsline)-A John McCain presidency would be illegal because the Arizona senator was not born in the United States, says a lawsuit filed this week by the American Independent Party.

The minor party says it wants McCain's name removed from ballots in California because federal law would bar the former Vietnam War POW from taking office were he to be elected in November, according to the lawsuit filed in U.S. District Court in San Francisco.

Article II of the U.S. Constitution disqualifies McCain from assuming office because he was born in the Commonwealth of Panama in 1936, while his father was stationed at Coco Solo Naval Air Station in the Panama Canal Zone, the lawsuit contends.

The American Independent Party claims it will be "irreparably harmed by Senator McCain's illegal and illegitimate presence on the ballot." The plaintiffs in the case want McCain enjoined from running for president.

Also named in the lawsuit are the Republican National Committee and the California Republican Party. The lawsuit argues the GOP is engaging in "unfair competition" by putting forth an "illegitimate" presidential nominee.

"The harm sustained by being forced to compete against-and potentially be defeated by-and illegal and illegitimate campaign cannot be monetarily remedied nor can it be remedied after the November general election in any manner," the petition said.

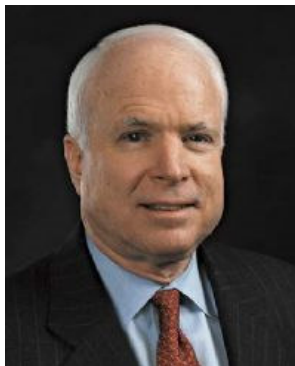
The lawsuit was brought by Markham Robinson of Vacaville, Calif., chairman-elect of the American Independent Party. The AIP has nominated author Alan Keyes for president.

Keyes was appointed ambassador to the Economic and Social Council of the United Nations under Republican U.S. President Ronald Reagan, and served as assistant secretary of state for international organization affairs from 1985 to 1987.

The plaintiffs are represented by Gregory Walston of the law firm of Walston Cross of San Francisco.

From Legal Newsline: Reach reporter Chris Rizo at chrisrizo@legalnewsline.com.

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John McCain (R)

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