



1 response. (Doc. 21). On July 12, 2011, Bok Hee Ee filed a motion for extension of time to file an  
2 answer to the complaint and a reply to the United States' response (Doc.23).<sup>1</sup>

3 As part of Claimant Bok Hee Ee's motions, Ms. Grantland filed several documents under  
4 seal. However, it was unclear whether the government was ever served with the sealed documents  
5 at the time it filed its response. On July 22, 2011, Ms. Grantland filed a second declaration under  
6 seal. On July 22, 2011, Ms. Grantland also filed a certificate of service wherein she indicates that  
7 she served the government with copies of both the first and second declarations she prepared as  
8 counsel on July 7, 2011 and July 22, 2011, as well as a copy of Bok Hee Ee's declaration dated July  
9 7, 2011. This proof of service indicates these documents were only recently served on government  
10 counsel on July 22, 2011.<sup>2</sup> (Doc. 26). Since it appears from the record that the government was not  
11 served with all of the sealed documents in this case at the time it filed its response, the Court will  
12 allow additional time for the government to file a supplemental response.

13 Moreover, the Civil Asset Forfeiture Reform Act ("CAFRA") provides that a claimant may  
14 be appointed counsel in a judicial forfeiture proceeding *if* the claimant is financially unable to obtain  
15 representation by counsel *and* the property subject to forfeiture is real property that is being used by  
16 the person as a primary residence. 18 U.S.C. § 983(b)(2)(A). The government has argued that Bok  
17 Hee Ee is not eligible for appointment of counsel because she was living in Korea for several years  
18 and has not lived at the subject property. On July 26, 2011, Ms. Grantland filed a second  
19 memorandum in support of her motion to appoint counsel addressing this issue. (Doc. 28).  
20 Accordingly, the United States should be given an opportunity to respond to Claimant's most recent  
21 filing.

22 Finally, in the declaration submitted by Bok Hee Ee, she indicates that she has not lived at  
23 the subject residence for several years. *See*, Declaration of Bok Hee Ee dated July 7, 2011 at ¶ 3-8.

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25 <sup>1</sup> These motions were originally noticed before District Judge Oliver W. Wanger. Judge Wanger requested that  
26 the motions be reset and considered by Magistrate Judge Sheila K. Oberto who took the matter under submission. (Doc.  
27 24.) The case was reassigned to the undersigned on July 19, 2011, due to Judge Oberto's recusal. (Doc. 25).

28 <sup>2</sup> Ms. Grantland did not serve government counsel with a copy of Form CJA 23 or Ms. Ee's credit report. It  
does not appear that service of these documents is appropriate at this time since the Court will independently make a  
determination regarding Plaintiff's ability to pay for counsel.

1 However, she asserts that although the subject property was her “primary residence,” she was living  
2 in Korea for three years and returned to the United States in March 2011. *Id.* Since returning to the  
3 United States, she has been living with her daughter at another residence and intends to return to the  
4 subject property in January 2012. *Id.* Subsequent materials submitted by Ms. Grantland dated July  
5 22 and July 26, 2011, indicates that Bok Hee Ee will move back to the subject property if needed in  
6 order to obtain counsel. Declaration of Brenda Grantland dated July 22, 2011 at ¶ 6. Ms. Grantland  
7 further contends that Ms. Ee used the address in the United States to receive mail and the subject  
8 property was the address listed on Bok Hee Ee’s drivers license and voter registration throughout  
9 her absence in the United States. However, there has been no declaration filed under penalty of  
10 perjury by Ms. Ee, or any other evidence submitted to support counsel’s most recent assertions.  
11 (Doc. 28 at pgs. 2-3). Claimant is reminded that it is her burden to establish that she is eligible for  
12 the appointment of counsel. Whether the subject property is Ms. Ee’s primary residence is tenuous,  
13 especially in light of the fact that counsel has indicated that the subject property is in foreclosure.  
14 This Court is not inclined to appoint counsel in the absence of any evidentiary support of counsel’s  
15 representations.

16 Given the above, the parties shall file supplemental briefing in order to respond to the  
17 deficiencies noted above. Claimant Bok Hee Ee shall file any supplemental evidence **no later than**  
18 **August 10, 2011**. The United States shall file any opposition to Claimant’s motions no later than  
19 **August 24, 2011**. Any reply shall be filed by the Claimant no later than **August 31, 2011**. A  
20 hearing will be held regarding both motions on September 9, 2011 at 9:30 am before the undersigned  
21 in Courtroom 10.

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23 IT IS SO ORDERED.

24 **Dated: July 27, 2011**

/s/ Gary S. Austin  
25 UNITED STATES MAGISTRATE JUDGE  
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