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5 Attorneys for Defendants  
HEAL THE WORLD FOUNDATION and  
6 UNITED FLEET

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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
10 WESTERN DIVISION

11  
12 JOHN G. BRANCA, Special  
Administrator of the Estate of Michael  
13 J. Jackson; JOHN MCCLAIN, Special  
Administrator of the Estate of  
14 Michael J. Jackson; TRIUMPH  
INTERNATIONAL, INC., a California  
15 corporation,

16 Plaintiffs,

17 vs.

18 HEAL THE WORLD FOUNDATION,  
a California corporation; UNITED  
19 FLEET, a California corporation; and  
DOES 1-10, inclusive,  
20

21 Defendants.

CASE NO: CV-09-07084 DMG [PLAx]

Honorable Dolly M. Gee  
Courtroom 7

**NOTICE OF MOTION AND  
MOTION FOR RELIEF FROM  
JUDGMENT**

**DATE: October 24, 2011**  
**TIME: 9:30 A.M.**  
**CTRM: 7**

22  
23 TO ALL PARTIES HEREIN AND TO THEIR ATTORNEYS OF RECORD:

24 PLEASE TAKE NOTICE that at 9:30 A.M. on October 24, 2011, or as soon  
25 thereafter as the matter may be heard in Courtroom 7 of United States District  
26 Court, Honorable Dolly M. Gee, United States District Judge, presiding, located at  
27 312 N. Spring Street, Los Angeles, California 90012, Defendants Heal the World  
28 Foundation (“HTWF”) and United Fleet will move, and do hereby move the Court

1 for relief from the Order granting Plaintiffs' Motion to Enforce Parties' Fully  
2 Executed Settlement Agreement dated June 27, 2011 and the Judgment dated June  
3 27, 2011.

4 This motion is made on the following grounds:

5 1. Relief from Judgment should be granted under Rule 60(b)(2) of the  
6 Federal Rules of Civil Procedure because there is newly discovered evidence that  
7 Defendants' counsel, Mr. Pease, breached his duties of loyalty, confidentiality, and  
8 competence when he advised Ms. Johnson sign the settlement agreement;

9 2. Relief from Judgment should be granted under Rule 60(b)(4) of the  
10 Federal Rules of Civil Procedure because the Court lacked the jurisdiction to  
11 affirmatively bind Melissa Johnson to a permanent injunction and judgment when  
12 she was not served with process and not made a party to this case, thereby denying  
13 Ms. Johnson due process;

14 3. Alternatively, relief from Judgment should be granted under Rule  
15 60(b)(6) of the Federal Rules of Civil Procedure because extraordinary  
16 circumstances exist from the reckless conduct of Defendants' counsel in inducing  
17 Ms. Johnson to sign the settlement agreement;

18 4. There was no undue delay in bringing this motion and Plaintiffs will  
19 not be unduly prejudiced if the court sets aside the Order; and,

20 5. The claims and/or defenses in this motion are meritorious.

21 This motion is based on this Notice of Motion, the attached Memorandum of  
22 Points and Authorities, the declaration of Melissa Johnson, all of the pleadings,  
23 papers, and other records on file in this action, and whatever argument and evidence  
24 may be heard at any hearing on this motion.

25 PLEASE TAKE FURTHER NOTICE that, under Local Rule 7-9 of the  
26 United States District Court for the Central District of California, the parties  
27 opposing a motion shall not later than twenty-one (21) days before the date selected  
28 for the hearing on the motion, serve upon all other parties and file with the clerk of

1 the Court (1) the evidence upon which the opposing parties will rely in opposition  
2 and a brief but complete memorandum containing a statement of all reasons in  
3 opposition to said motion and the points and authorities upon which the opposing  
4 party will rely, or (2) a written statement that they will not oppose this motion.

5 This motion is made following the conference of counsel pursuant to L.R. 7-3  
6 which took place on September 7, 2011.

7  
8 Dated: August 3, 2011

Respectfully submitted,

9 /s/ Steven C. Smith

10 Steven C. Smith

SMITH CAMPBELL CLIFFORD KEARNEY GORE

11 1800 North Broadway, Suite 200

12 Santa Ana, CA 92706

13 (714) 550-7720

14 Counsel for Defendants  
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**PROOF OF SERVICE**  
*Branca et al. vs. Heal the World Foundation, et al.*

I declare that I am employed in the City of Santa Ana, County of Orange, State of California. I am over the age of eighteen years and not a party to the within action; my business address is: 1800 North Broadway, Suite 200, Santa Ana, California 92706

On September 19, 2011, I served the foregoing document(s):

**NOTICE OF MOTION FOR RELIEF FROM JUDGMENT**

on all interested parties in this action by placing [ ] the original [X] a true copy thereof, enclosed in a sealed envelope with postage pre-paid, addressed as follows:


Vincent H. Chieffo, State Bar No. 49069 Nina D. Boyajian, State Bar No. 246415 <b>GREENBERG TRAUERIG, LLP</b> 2450 Colorado Avenue, Suite 400E Santa Monica, CA 90404-5524 Phone: (310) 586-7700 Fax: (310) 586-7800 <i>ChieffoV@gtlaw.com</i> <i>BoyajianN@gtlaw.com</i>	Attorneys for Plaintiffs John G. Branca and John McClain, Special Administrators of the Estate of Michael J. Jackson, Triumph International, Inc.
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**[X] By ELECTRONIC FILE TRANSFER TO ECF FILE & SERVE:**  
By transmitting a true copy of the document(s) listed above for service on all parties in this case pursuant to applicable statutes, local rules and/or order of the Court.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on September 19, 2011, at Santa Ana, California.

Dolores Cerecedes  
(Print Name)

  
(Signature)