

FILED

UNITED STATES COURT OF APPEALS

APR 01 2011

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

MICHAEL CHAMNESS,

Plaintiff - Appellant,

and

DANIEL FREDERICK; et al.,

Plaintiffs,

v.

DEBRA BOWEN, In only her official
capacity as California Secretary of State; et
al.,

Defendants - Appellees,

and

CALIFORNIA INDEPENDENT VOTER
PROJECT; et al.,

Movants - Appellees.

No. 11-55534

D.C. No. 2:11-cv-01479-ODW
Central District of California,
Los Angeles

ORDER

Before: McKEOWN, FISHER, and BERZON, Circuit Judges.

The appeal filed March 30, 2011 is a preliminary injunction appeal.

Accordingly, Ninth Circuit Rule 3-3 shall apply.

MT/MOATT

The supplemental request for judicial notice is granted.

The emergency motion for expedited hearing and injunction pending appeal is denied. *See Hilton v. Braunskill*, 481 U.S. 770, 776 (1987); *Cal. Pharmacists Ass'n v. Maxwell-Jolly*, 563 F.3d 847, 849-50 (9th Cir. 2009) (order). The motion only challenges the prohibition in Senate Bill 6 on the use of the term “Independent” and appellant has not met the legal standards for an injunction pending appeal as to the issue raised.

A review of this court’s docket reflects that the filing and docketing fees for this appeal remain due. Within 21 days after the date of this order, appellant shall pay to the district court the \$455.00 filing and docketing fees for this appeal and file in this court proof of such payment or file in this court a motion to proceed in forma pauperis. Failure to pay the fees or file a motion to proceed in forma pauperis shall result in the automatic dismissal of the appeal by the Clerk for failure to prosecute. *See* 9th Cir. R. 42-1.

If they have not already done so, within 7 calendar days after the filing date of this order, the parties shall make arrangements to obtain from the court reporter an official transcript of proceedings in the district court that will be included in the record on appeal.

The briefing schedule shall proceed as follows: the opening brief and excerpts of record are due not later than April 27, 2011; the answering brief is due May 25, 2011 or 28 days after service of the opening brief, whichever is earlier; and the optional reply brief is due within 14 days after service of the answering brief. *See* 9th Cir. R. 3-3(b).

Failure to file timely the opening brief shall result in the automatic dismissal of this appeal by the Clerk for failure to prosecute. *See* 9th Cir. R. 42-1.

The Clerk shall serve a Form 4 financial affidavit on appellant.