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4 Attorney for Plaintiffs

5 MICHAEL CHAMNESS, DANIEL FREDERICK,  
6 and RICH WILSON

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

10  
11 MICHAEL CHAMNESS, DANIEL  
12 FREDERICK, and RICH WILSON,

13 *Plaintiffs,*

14 vs.

15 DEBRA BOWEN, in only her  
16 official capacity as California  
17 Secretary of State; DEAN LOGAN,  
18 in only his official capacity as  
19 Registrar-Recorder / County Clerk  
20 of the County of Los Angeles; and  
21 DOES 1-10;

22 *Defendants,*

23 ABEL MALDONADO, an  
24 individual; CALIFORNIA  
INDEPENDENT VOTER  
PROJECT; and CALIFORNIANS  
TO DEFEND THE OPEN  
PRIMARY;

25 *Intervenors-  
Defendants*

CASE NO. 2:11-CV-01479 ODW  
(FFMx)

**DECLARATION OF GAUTAM  
DUTTA IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
SUMMARY JUDGMENT AND  
REQUEST FOR JUDICIAL NOTICE**

HEARING DATE: June 6, 2011  
HEARING TIME: 1:30 pm  
JUDGE: Hon. Otis D. Wright,  
II  
COURTROOM: 11\_

26 I, Gautam Dutta, declare as follows:

27 1. I am an attorney licensed to practice in the State of California, and  
28 have been a member of the State Bar of California since 1998 (State Bar No.  
199326). I represent Plaintiffs in this case. Plaintiff Rich Wilson is registered to

1 vote in Placer County.

2 2. On May 3, 2011 at approximately 3:20 pm, I called the Placer County  
3 Elections Office, and spoke with Senior Elections Supervisor Robin Bjerke.

4 3. I asked Ms. Bjerke whether write-in votes would be counted in the  
5 May 3, 2011 special general election for Assembly District 4 (the “AD 4 Runoff”).

6 4. In response, she stated that her office would not count any write-in  
7 ballots cast in the AD 4 Runoff.

8 5. I have attached true and accurate copies of the following documents:

9  
10 Exhibit A: “Venice: Congressional contenders questioned on local  
11 matters, foreign policy”, *The Argonaut*, May 4, 2011. I obtained a copy of this  
12 document from *The Argonaut*’s website at  
[http://www.argonautnewspaper.com/articles/2011/05/05/news\\_-  
\\_features/top\\_stories/1v.txt](http://www.argonautnewspaper.com/articles/2011/05/05/news_-_features/top_stories/1v.txt) (*last visited* May 5, 2011).

13 Exhibit B: Secretary Bowen’s Information Sheet (Qualifications and  
14 Requirements) for Member of the State Assembly, 4<sup>th</sup> District Special Election. I  
15 obtained a copy of this document from Secretary Bowen’s official website at  
<http://www.sos.ca.gov/elections/Special/ad04/qualifications-requirements.pdf> (*last  
visited* May 5, 2011).

16 Exhibit C: Bill history for Senate Constitutional Amendment No. 4,  
17 Res. Ch. 2, St. 2009. I obtained a copy of this document from the California  
18 Legislature’s official website at [http://www.leginfo.ca.gov/pub/09-  
10/bill/sen/sb\\_0001-0050/sb\\_6\\_bill\\_20090220\\_history.html](http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0001-0050/sb_6_bill_20090220_history.html) (*last visited* April 27,  
2011).

19 Exhibit D: Bill history for Senate Constitutional Amendment No. 4,  
20 Res. Ch. 2, St. 2009. I obtained a copy of this document from the California  
21 Legislature’s official website at [http://www.leginfo.ca.gov/pub/09-  
10/bill/sen/sb\\_0001-0050/sb\\_6\\_bill\\_20090220\\_history.html](http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0001-0050/sb_6_bill_20090220_history.html) (*last visited* April 27,  
2011).

22 Exhibit E: The official sample ballot for the May 17, 2011 special  
23 general election in Congressional District 36 (the “CD 36 Runoff”). I obtained this  
document, which was mailed to overseas voters, from Registrar Logan’s counsel.

24 Exhibit 4: A document that I received from counsel for Intervenor  
25 Maldonado on August 18, 2010. As stated in a sworn statement by counsel for  
26 Intervenor Maldonado (at p. 17), that document contains official correspondence,  
27 dated August 3, 2010 (at pp. 19-25) and August 11, 2010 (at pp. 26-66), between  
the offices of Secretary of State Debra Bowen and then-Lieutenant Governor and  
now-Intervenor Abel Maldonado. This document originally attached as Exhibit 2  
to the First Amended Complaint.

28 Exhibit G: The official sample ballot for the February 15, 2011  
special primary election in Senate District 28 (the “SD 28 Runoff”). I obtained this

1 document from counsel for Registrar Logan on January 21, 2011. On March 30,  
2011, the Court took judicial notice of this document.

2 Exhibit H: The Secretary of State's Certified List of Candidates for  
3 the CD 36 Primary. I obtained this document from the Secretary of State's website.

4 Exhibit I: The Secretary of State's Certified List of Candidates for  
5 the SD 28 Runoff, of which the Court took judicial notice on March 30, 2011.

6 Exhibit J: "State Legislature passes emergency budget plan", *San*  
7 *Francisco Chronicle*, Feb. 19, 2009. I obtained this document from the *Chronicle's*  
8 website at [http://articles.sfgate.com/2009-02-19/news/17190540\\_1\\_budget-plan-](http://articles.sfgate.com/2009-02-19/news/17190540_1_budget-plan-state-income-tax-gop-vote)  
9 [state-income-tax-gop-vote](http://articles.sfgate.com/2009-02-19/news/17190540_1_budget-plan-state-income-tax-gop-vote) (*last visited* May 5, 2011).

10 Exhibit K: "Estimated Cost of Candidate Statements", excerpted  
11 from the Candidate Handbook for the CD 36 Primary, published by Registrar  
12 Logan. I obtained this document from Registrar Logan's website at  
13 [http://www.lavote.net/voter/PDFS/CANDIDATE\\_HANDBOOKS/05172011.pdf](http://www.lavote.net/voter/PDFS/CANDIDATE_HANDBOOKS/05172011.pdf)  
14 (*last visited* May 5, 2011).

15 Exhibit L: "Estimated Cost of Candidate Statements", excerpted  
16 from the Candidate Handbook for the SD 28 Primary, published by Registrar  
17 Logan. I obtained this document, which was filed with the Court on Mar. 21, 2011,  
18 from Registrar Logan's website at  
19 [http://www.lavote.net/voter/PDFS/CANDIDATE\\_HANDBOOKS/02152011.pdf](http://www.lavote.net/voter/PDFS/CANDIDATE_HANDBOOKS/02152011.pdf)  
20 (*last visited* Mar. 21, 2011).

21 Exhibit M: Official Orange County sample ballot from the Nov. 2,  
22 2010 general election, in which Cecilia Iglesias appeared on the ballot as an  
23 Independent candidate for U.S. Congress. I obtained this document from counsel  
24 for the Orange County Registrar of Voters. On March 30, 2011, the Court took  
25 judicial notice of this document.

26 Exhibit N: Wikipedia records of the 1992 State Senate General  
27 Election for Senate District 39, *available at*  
28 [http://en.wikipedia.org/wiki/California\\_State\\_Senate\\_elections,\\_1992](http://en.wikipedia.org/wiki/California_State_Senate_elections,_1992) (*last visited*  
29 May 6, 2011). Independent candidate Lucy Killea won that election.

30 Exhibit O: "Candidates Elected to the House, 1902-2000, Who  
31 Weren't Nominees of the Democratic or Republican Parties. *Ballot Access News*,  
32 June 1, 2001, *available at* <http://www.ballot-access.org/2001/0601.html> (*last visited*  
33 May 6, 2011).

34 Exhibit P: Wikipedia entry on Independent Quentin Kopp, *available*  
35 *at* [http://en.wikipedia.org/wiki/Quentin\\_L.\\_Kopp#California\\_State\\_Senate](http://en.wikipedia.org/wiki/Quentin_L._Kopp#California_State_Senate) (*last*  
36 *visited* May 6, 2011).

37 Exhibit Q: Excerpt from the Secretary of State's June 8, 2010 Official  
38 Voter Information Guide, of which the Court took judicial notice on Mar. 30, 2011.

39 Exhibit R: Secretary Bowen's Feb. 10, 2011 Report of Registration of  
40 California Voters, which I obtained from Secretary Bowen's official website at  
41 <http://www.sos.ca.gov/elections/ror/ror-pages/ror-odd-year-11/hist-reg-stats.pdf>  
42 (*last visited* May 6, 2011).

1 Exhibit S: Excerpt from Secretary Bowen's Statement of Vote for the  
2 June 8, 2010 statewide primary election, available at  
3 <http://www.sos.ca.gov/elections/sov/2010-primary/pdf/19-votes-for-against.pdf>  
4 (last visited May 5, 2011).

5 Exhibit T: Mar. 10, 2010 Memorandum from Registrar Logan to the  
6 Los Angeles Board of Supervisors (which had been attached as Exhibit 9 to the  
7 First Amended Complaint), available at [http://www.sos.ca.gov/elections/sov/2010-](http://www.sos.ca.gov/elections/sov/2010-primary/pdf/19-votes-for-against.pdf)  
8 [primary/pdf/19-votes-for-against.pdf](http://www.sos.ca.gov/elections/sov/2010-primary/pdf/19-votes-for-against.pdf) (last visited May 5, 2011).

9 Exhibit U: Dec. 15, 2010 California Supreme Court order in *Field v.*  
10 *Superior Court* (No. S188436), which was mailed to me by the court and attached  
11 as Exhibit 12 to the First Amended Complaint.

12 Exhibit V: Jan. 31, 2011 California Court of Appeal order in *Field v.*  
13 *Bowen* (No. A129946), which was mailed to me by the court and attached as  
14 Exhibit 13 to the First Amended Complaint.

15 Exhibit W: Feb. 27, 2011 letter that I sent to Secretary Bowen on  
16 behalf of Plaintiffs Frederick and Wilson.

17 Exhibit X: Mar. 2, 2011 letter that I received from Lowell Finley,  
18 Chief Counsel to Secretary Bowen.

19 Exhibit Y: "Johnson & Reyes Uranga Will Need Run-Off in 7<sup>th</sup>  
20 District", *Long Beach Post*, April 14, 2010, available at  
21 <http://www.lbpost.com/ryan/9273> (last visited May 6, 2011).

22 Exhibit Z: Senate Constitutional Amendment No. 4, Ch. 2, Res. 2009,  
23 attached as Exhibit 4 to the First Amendment Complaint.

24 Exhibit AA: Senate Bill 6, Ch. 2, Stat. 2009, attached as Exhibit 3 to  
25 the First Amendment Complaint.

26 I declare under penalty of perjury and the laws of the United States that the  
27 foregoing is true and correct and are based on my personal knowledge, except for  
28 matters stated on information and belief; and, as to those matters, I believe them to  
be true. If called as a witness, I could competently testify thereto.

Executed on May 6, 2011, in Fremont, California.

DATED: May 6, 2011

By: /s/ GAUTAM DUTTA, ESQ.