

1 GAUTAM DUTTA, ESQ. (State Bar No. 199326)
2 39270 Paseo Padre Parkway # 206
3 Fremont, CA 94538
4 Telephone: 415.236.2048
5 Email: Dutta@BusinessandElectionLaw.com
6 Fax: 213.405.2416

7 Attorney for Plaintiffs

8 MICHAEL CHAMNESS, DANIEL FREDERICK,
9 and RICH WILSON

10
11 IN THE UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA

FILED
2011 MAR 10 PM 12:45
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

13 MICHAEL CHAMNESS, DANIEL
14 FREDERICK, and RICH WILSON;

15 *Plaintiffs,*

16 vs.

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

24 *Defendants,*

25 ABEL MALDONADO, an
26 individual; CALIFORNIA
27 INDEPENDENT VOTER
28 PROJECT; and CALIFORNIANS
TO DEFEND THE OPEN
PRIMARY;

*Intervenors-
Defendants*

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

**FIRST AMENDED COMPLAINT
FOR INJUNCTIVE AND
DECLARATORY RELIEF**

FEDERAL JURISDICTION INVOKED
PURSUANT TO 28 U.S.C. §1983

HEARING DATE: TBD
HEARING TIME: TBD
JUDGE: Hon. Otis D. Wright,
II

COURTROOM: 11_

INTRODUCTION

1. Plaintiff Michael Chamness brings this constitutional challenge to defend and vindicate every candidate's fundamental right to share his or her

1 political beliefs with the voters.

2 2. Plaintiff Daniel Frederick brings this constitutional challenge to defend
3 and vindicate every voter's right to run as a write-in candidate in any general
4 election for state or federal office.

5 3. Plaintiff Rich Wilson brings this constitutional challenge to defend and
6 vindicate every voter's right to vote for a write-in candidate in any general election
7 for state or federal office.

8 **SUMMARY OF CLAIMS: Michael Chamness**

9 4. Plaintiff Chamness seeks to block Senate Bill 6 ("SB 6") from being
10 implemented in the looming special primary election for California Congressional
11 District 36 – because SB 6 will force him to falsely state on the ballot that he has
12 "No Party Preference".

13 5. SB 6 targets and discriminates against minor-party candidates for
14 federal and state legislative office, while bestowing unlawful privileges on major-
15 party candidates.

16 6. Plaintiff Chamness is affiliated with the Coffee Party, a minor (non-
17 state-recognized) political party. He intends to run in the special primary election
18 for Congressional District 36, as a candidate who identifies with the Coffee Party.

19 7. The date of the special primary election for Congressional District 36
20 (the "CD 36 Primary") must be set by March 14, 2011. As of March 6, 2011, the
21 date of the CD 36 Primary had not yet been set. The CD 36 Primary could be held
22 as soon as May 3, 2011. Under that timetable, voters will be able to cast vote-by-
23 mail ballots beginning April 8, 2011; and the general election (if necessary) will be
24 held on June 28, 2011.

25 8. On February 15, 2011, Secretary of State Debra Bowen, who has been
26 named as a Defendant in this case, announced that she would run as a candidate in
27 the CD 36 Primary.

28 9. Unlike Plaintiff Chamness, Secretary of State Bowen will be allowed

1 to use a party label (i.e., “Democratic Party”) on the ballot for the CD 36 Primary.
2 In a statement released on February 15, 2011, Secretary of State Bowen stated:
3 “Over the years, I’ve proven that I’m principled and that solving problems is much
4 more important to me than party labels.” A copy of her February 15, 2011 press
5 release has been attached as Exhibit 8 (p. 101).

6 10. Between 1915 and 2009, minor-party candidates were allowed to state
7 on the ballot that they were “Independent”.

8 11. In a radical departure, Senate Bill 6 (“SB 6”) banned minor-party
9 candidates from stating on the ballot that they are “Independent”.

10 12. SB 6 imposes a “Party Preference Ban” on minor-party candidates.
11 That is, minor-party candidates are forced to falsely state on the ballot that they
12 have “No Party Preference”. Significantly, Secretary of State Bowen *has publicly*
13 *admitted that SB 6’s Party Preference Ban is not “permissible”*, because it bans
14 minor-party candidates from identifying themselves as “Independent”.

15 13. SB 6 threatens Plaintiff Chamness with imminent, irreparable harm.
16 Unless SB 6 is swiftly enjoined, it will force Plaintiff Chamness to falsely state that
17 he has “No Party Preference” on the ballot for the CD 36 Primary. In other words,
18 *SB 6 will force Plaintiff Chamness to lie to voters about his political views.*

19 14. SB 6 has already inflicted irreparable harm on Plaintiff Chamness’
20 fundamental rights. Recently, Plaintiff Chamness’ name appeared on the February
21 15, 2011 ballot, as a certified candidate for the special primary election in Senate
22 District 28 (the “SD 28 Primary”). During the SD 28 Primary, SB 6 forced Plaintiff
23 Chamness to falsely state that he had “No Party Preference”.

24 15. Specifically, the ballot for the SD 28 Primary foisted Plaintiff
25 Chamness with the party label of “No Party Preference”, even though he identifies
26 with the Coffee Party.¹

27 ¹ A copy of the sample ballot used in the SD 28 Primary has been attached as
28 Exhibit 1. That ballot states that Plaintiff Chamness has “No Party Preference”.
Like the sample ballot, the vote-by-mail and election-day ballots also stated that

