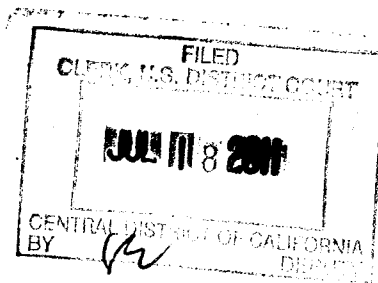


GAUTAM DUTTA, ESQ. (State Bar No. 199326)
39270 Paseo Padre Parkway # 206
Fremont, CA 94538
Telephone: 415.236.2048
Email: Dutta@BusinessandElectionLaw.com
Fax: 213.405.2416



Attorney for Intervenor-Applicant

JULIUS GALACKI

IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MICHAEL CHAMNESS, DANIEL
FREDERICK, and RICH WILSON,

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

Plaintiffs,

vs.

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

**DECLARATION OF JULIUS
GALACKI IN SUPPORT OF EX
PARTE APPLICATION TO
SHORTEN TIME AND MOTION TO
INTERVENE**

HEARING DATE: N/A August 15, 2011
HEARING TIME: N/A 1:30 P.M.
JUDGE: Hon. Otis D. Wright

Defendants,

COURTROOM: II

I, Julius Galacki, declare as follows:

1. I live and pay taxes in Los Angeles County. I am registered to vote in Congressional District 36, which recently elected its Member of the U.S. Congress in its July 12, 2011 special general election (the "General Election").

2. I recently sought to run as a write-in candidate – and have changed my party affiliation from the Democratic Party to the Tea Party – in order to call attention to two troubling ways in which Proposition 14's Top Two Primary violates our fundamental rights.

DECLARATION OF JULIUS GALACKI

LOGGED

JUL 14 PM 1:21
U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

1 3. First, Senate Bill 6 (which implements Proposition 14's Top Two
2 Primary) unlawfully bans individuals from running as write-in candidates in every
3 general election for federal and state office. Second, Senate Bill 6 (SB 6) forces
4 Tea Party and other minor-party candidates to lie to voters, by forcing them to
5 falsely state on the ballot that they have "No Party Preference".

6 4. On June 7, 2011, the Court took Plaintiffs' pending Motion for
7 Summary Judgment under submission, and stated that an order would issue.

8 5. As the accompanying papers show, I am entitled to intervene in this
9 lawsuit as a matter of right. Put another way, my ability to vindicate my
10 fundamental rights will be *irreparably prejudiced*, unless the Court simultaneously
11 rules on both my as-applied constitutional claims and Plaintiffs' pending Motion
12 for Summary Judgment.

13 6. I respectfully ask the Court to promptly (a) **grant** my Ex Parte
14 Application to Shorten Time Motion to Intervene, and (b) **grant** my Motion to
15 Intervene, and (c) **incorporate by reference** my as-applied legal claims (stemming
16 from the July 12, 2011 General Election) into Plaintiffs' pending Motion for
17 Summary Judgment. I also ask the Court to (i) **grant** Plaintiffs' pending Motion
18 for Summary Judgment, and (ii) **deny** Intervenors-Defendants' request under
19 FRCP 56(f) to enter judgment in their favor.

20 A. SB 6's Violation of My Fundamental Right to Run for Public Office

21 7. Elections Code section 15340 gives every voter the right to cast a
22 write-in vote in "any" election. Furthermore, Elections Code sections 8600 and
23 8601 expressly give individuals like me the right to run as qualified write-in
24 candidates for any federal or state office, as long as they file their nomination
25 papers within 14 days of the date of the election. Thus, the statutory deadline to
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27 14 days before July 12, 2011).

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2 federal office. On May 23, 2011, she told this Court that SB 6 “prohibits write-in
3 candidates at general elections[.]”¹ According to one of her top legislative aides,
4 SB 6 not only gives “candidates the illusion that they can run as a write-in”, but
5 gives “voters the illusion that they can write in a candidate’s name and have [their
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7 9. On June 13, 2011, I decided to run as a write-in candidate in the
8 General Election. In a June 14, 2011 letter, my counsel asked Los Angeles County
9 Registrar Dean Logan to issue me nomination papers so that I could qualify and
10 run as a write-in candidate. A copy of that letter has been attached as Exhibit 1 to
11 the accompanying Declaration of Gautam Dutta.

12 10. On June 26, 2011, I cast a write-in vote for myself, Julius Galacki, in
13 the General Election, and mailed my vote-by-mail ballot to Registrar Logan’s
14 office. I have enclosed, as Exhibit 2, a redacted copy of my June 26, 2011 letter
15 (addressed to Registrar Logan) that I attached to my vote-by-mail ballot.

16 11. On June 28, 2011, the statutory deadline to file write-in nomination
17 papers for the General Election passed. Because no nomination papers had been
18 issued to me as of that date, I was barred from exercising my fundamental right to
19 run for office.

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21 counsel. In that letter, Registrar Logan stated that he was “unable to grant [my]
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25 13. On July 12, 2011, the write-in vote that I cast in the General Election
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27 ¹ Secretary of State’s May 23, 2011 Statement of Genuine Issues of Material Facts ¶5.
28 ² Plaintiffs’ May 6, 2011 Motion for Summary Judgment, at 9:15-9:18 (emphases added).

1 B. My Tea Party Candidacy to Defend Every Candidate's Right to Express His
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3 14. To defend the constitutional rights of minor-party candidates, I intend
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6 15. On June 27, 2011, I signed a voter-registration form in which I
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8 day, I mailed that form (attached as Exhibit 1) to the Los Angeles County
9 Registrar's office.

10 16. Unlike the Democratic Party, the Tea Party is a minor (i.e., non-state-
11 recognized) party.

12 17. Before Jan. 1, 2011 (the date on which SB 6 and Proposition 14 took
13 effect), minor-party candidates had the right to run in the general election with the
14 ballot label of "Independent".

15 18. However, Part 325 of SB 6 (codified at Elections Code §325)
16 unlawfully bans minor-party candidates like me from using the ballot label of
17 "Independent". As Plaintiffs' pending Motion for Summary Judgment shows, Part
18 325 forces all minor-party candidates to falsely state on the ballot that they have
19 "No Party Preference".³

20 C. Time-Sensitive Requirements to Waive the \$1,740.00 Filing Fee

21 19. I intend to run for Member of the U.S. Congress in the June 5, 2012
22 primary election, as a candidate with the party affiliation of the Tea Party. If
23 Senate Bill 6 is enjoined, I intend to run for Member of the U.S. Congress in the
24 Nov. 6, 2012 general election, as a candidate with the ballot label of
25 "Independent".

26 20. To qualify as a candidate for Member of the U.S. Congress, an
27

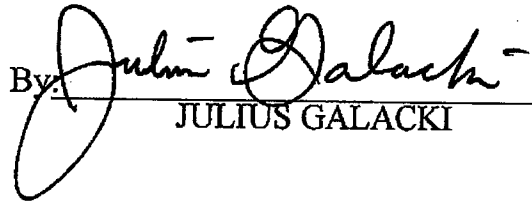
28 ³ Id. at 13:22-14:3.

1 individual must pay a filing fee of \$1,740.00, among other requirements.⁴ To
2 eliminate that onerous fee, a candidate must begin gather at least 3,000 valid
3 signatures from voters in the given Congressional district.⁵ Toward that end, Dec.
4 **30, 2011** is the first day on which I may begin gathering those signatures.⁶
5

6 I declare under penalty of perjury and the laws of the United States that the
7 foregoing is true and correct and are based on my personal knowledge, except for
8 matters stated on information and belief; and, as to those matters, I believe them to
9 be true. If called as a witness, I could competently testify thereto.
10

11 Executed on July 14, 2011, in Los Angeles, California.
12

13 DATED: July 14, 2011

14 By: 
15 JULIUS GALACKI
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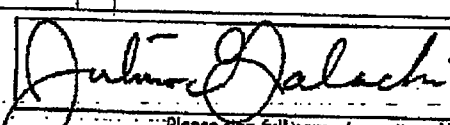
25 ⁴ Elections Code §8103(a)(2) (Congressional filing fee must be 1 percent of a Member of
26 Congress' annual salary); Library of Congress website, *available at*
27 <http://thomas.loc.gov/home/faqlist.html> (*last visited* July 13, 2011) (Congressional annual salary
28 currently set at \$174,000).

⁵ Elections Code §8106(a)(2).

⁶ *Id.* §8061 (Congressional candidates seeking to waive the \$1,740.00 filing fee may begin gathering signatures on the 158th day before a given election).

Voter Registration Application

Before completing this form, review the General, Application, and State specific instructions.

Are you a citizen of the United States of America? Yes Will you be 18 years old on or before election day? Yes If you checked "No" in response to either of these questions, do not complete form. (Please see state-specific instructions for rules regarding eligibility to register prior to age 18.)				This space for office use only.			
1	Mr.	Last Name Galacki	First Name Julius	Middle Name(s) John	Jr.		
2	Home Address [REDACTED]		Apt. or Lot # [REDACTED]	City/Town Los Angeles	State CA		
3	Address Where You Get Your Mail If Different From Above			City/Town	State Zip Code		
4	Date of Birth [REDACTED] Month Day Year		5 Telephone Number (optional)	6 ID Number - (See item 6 in the instructions for your state)			
7	Choice of Party (see item 7 in the instructions for your State) Tea Party		8 Race or Ethnic Group (see item 8 in the instructions for your State)	[REDACTED]			
I have reviewed my state's instructions and I swear/affirm that: <input checked="" type="checkbox"/> I am a United States citizen <input checked="" type="checkbox"/> I meet the eligibility requirements of my state and subscribe to any oath required. <input checked="" type="checkbox"/> The information I have provided is true to the best of my knowledge under penalty of perjury. If I have provided false information, I may be fined, imprisoned, or (if not a U.S. citizen) deported from or refused entry to the United States.				Please sign full name (or put mark)  Date: 6/27/2011 Month Day Year			

If you are registering to vote for the first time: please refer to the application instructions for information on submitting copies of valid identification documents with this form.

Please fill out the sections below if they apply to you.

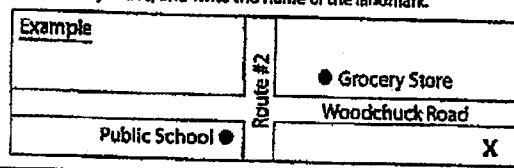
If this application is for a change of name, what was your name before you changed it?

A	Last Name	First Name	Middle Name(s)	
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If you were registered before but this is the first time you are registering from the address in Box 2, what was your address where you were registered before?

B Street (or route and box number)	Apt. or Lot #	City/Town/County	State	Zip Code
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If you live in a rural area but do not have a street number, or if you have no address, please show on the map where you live.

C <input checked="" type="checkbox"/> Write in the names of the crossroads (or streets) nearest to where you live. <input checked="" type="checkbox"/> Draw an X to show where you live. <input checked="" type="checkbox"/> Use a dot to show any schools, churches, stores, or other landmarks near where you live, and write the name of the landmark.	NORTH ↑ 	
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If the applicant is unable to sign, who helped the applicant fill out this application? Give name, address and phone number (phone number optional).

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Mail this application to the address provided for your State.

EXH. 1 - Galacki Declaration - p. 6

Mr. Julius Galacki

Los Angeles, CA

June 26, 2011

Via U.S. Mail

The Honorable Dean Logan
Registrar-Recorder / County Clerk, Los Angeles County
P.O. Box 30450
Los Angeles, CA 90030-0450

Re: Write-In Ballot Cast for Julius Galacki in CD 36 Special General Election

Dear Registrar Logan:

I am registered to vote in Congressional District 36, and have attached this letter to my vote-by-mail ballot for the July 12, 2011 special general election for Congressional District 36 (the "General Election").

I hereby cast a *write-in vote* for myself, Julius Galacki, in the General Election.

The Elections Code gives every voter the right "to write the name of *any candidate* for any public office, including that of President and Vice President of the United States, on the ballot of *any election*" as per Elections Code §15340 (emphases added).

Although the Elections Code explicitly gives me the right to vote for a write-in candidate in "any" election, the ballot that your office has provided does not allow me or any other voter to exercise that citizen's right in the General Election. Thus our, i.e. all citizens', fundamental right to vote for a candidate of our choice has been irreparably harmed.

Equally troubling, a new state law bans such write-in votes from being counted in federal and state elections. Namely, Senate Bill 6, which implements Proposition 14's Top Two Primary, *bans every write-in vote from being counted* in the General Election:

A person whose name has been written on the ballot as a *write-in candidate* at the general election ... *shall not be counted*.¹

In other words, if a voter casts a write-in vote in the General Election, *his or her vote will be thrown away*. As Secretary of State Debra Bowen's office has conceded, Senate Bill 6 not only gives "candidates the illusion that they can run as a write-in", but

¹ Part 8606 of Senate Bill 6, *codified at* Elections Code §8606 (emphases added).

Exh. 2 - Galacki Decl.

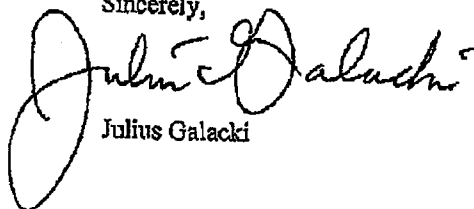
(7)

moreover gives "voters the illusion that they can write in a candidate's name and have [their votes] counted."² This is blatant disenfranchisement.

Senate Bill 6 brazenly violates every Californian's right to run for office and to have his or her vote counted, I am prepared to take all necessary steps to defend and vindicate those fundamental rights.

I may be reached through my attorney, Gautam Dutta, at 415.236.2048; Dutta@BusinessandElectionLaw.com. Thank you for your time and consideration.

Sincerely,



Julius Galacki

² Plaintiffs' May 6, 2011 Motion for Summary Judgment, *Chamness v. Bowen*, 11-CV-1479 (C.D. Cal.) (ODW), at 9:15-9:18 (emphases added), available at <http://gautamdutta.files.wordpress.com/2011/01/plaintiffs-motion-for-summary-judgment-5-6-11-conformed-copy.pdf> (last visited June 26, 2011).

Galacki Declaration - Exh. 2 - p. 8

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

4 Attorney for Intervenor-Applicant

5 JULIUS GALACKI
6

7
8 IN THE UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10

11 MICHAEL CHAMNESS, DANIEL
FREDERICK, and RICH WILSON,

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

12 *Plaintiffs,*

13 vs.

14 DEBRA BOWEN, in only her
15 official capacity as California
Secretary of State; DEAN LOGAN,
16 in only his official capacity as
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17 the County of Los Angeles; and
DOES 1-10;

**DECLARATION OF JULIUS
GALACKI IN SUPPORT OF EX
PARTE APPLICATION TO
SHORTEN TIME AND MOTION TO
INTERVENE**

HEARING DATE: N/A
HEARING TIME: N/A
JUDGE: Hon. Otis D. Wright
II

18 *Defendants,*
19

COURTROOM: 11

20
21 I, Julius Galacki, declare as follows:

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24 in its July 12, 2011 special general election (the "General Election").

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26 my party affiliation *from the Democratic Party to the Tea Party* – in order to call
27 attention to two troubling ways in which Proposition 14's Top Two Primary
28 violates our fundamental rights.

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2 Primary) unlawfully bans individuals from running as write-in candidates in every
3 general election for federal and state office. Second, Senate Bill 6 (SB 6) forces
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7 9. On June 13, 2011, I decided to run as a write-in candidate in the
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11 recognized) party.

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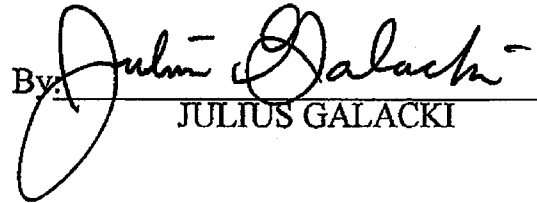
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5

6 I declare under penalty of perjury and the laws of the United States that the
7 foregoing is true and correct and are based on my personal knowledge, except for
8 matters stated on information and belief; and, as to those matters, I believe them to
9 be true. If called as a witness, I could competently testify thereto.
10

11 Executed on July 14, 2011, in Los Angeles, California.
12

13 DATED: July 14, 2011

14 By: 
15 JULIUS GALACKI
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17
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25 ⁴ Elections Code §8103(a)(2) (Congressional filing fee must be 1 percent of a Member of
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1	Mr.	Last Name Galacki	First Name Julius	Middle Name(s) John	Jr.
2	Home Address [REDACTED]		Apt. or Lot # [REDACTED]	City/Town Los Angeles	State CA
3	Address Where You Get Your Mail If Different From Above			City/Town	State Zip Code
4	Date of Birth [REDACTED] Month Day Year		5 Telephone Number (optional)	6 ID Number - (See item 6 in the instructions for your state) [REDACTED]	
7	Choice of Party (see item 7 in the instructions for your State) Tea Party		8 Race or Ethnic Group (see item 8 in the instructions for your State)		
I have reviewed my state's instructions and I swear/affirm that: <input checked="" type="checkbox"/> I am a United States citizen <input checked="" type="checkbox"/> I meet the eligibility requirements of my state and subscribe to any oath required. <input checked="" type="checkbox"/> The information I have provided is true to the best of my knowledge under penalty of perjury. If I have provided false information, I may be fined, imprisoned, or (if not a U.S. citizen) deported from or refused entry to the United States.				Please sign full name (or put mark)  Date: 6/27/2011 Month Day Year	

If you are registering to vote for the first time, please refer to the application instructions for information on submitting copies of valid identification documents with this form.

Please fill out the sections below if they apply to you.

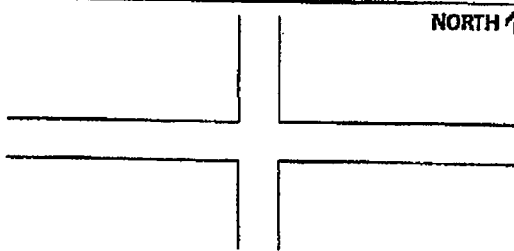
If this application is for a change of name, what was your name before you changed it?

A	Last Name	First Name	Middle Name(s)	
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If you were registered before but this is the first time you are registering from the address in Box 2, what was your address where you were registered before?

B Street (or route and box number)	Apt. or Lot #	City/Town/County	State	Zip Code
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If you live in a rural area but do not have a street number, or if you have no address, please show on the map where you live.

C Write in the names of the crossroads (or streets) nearest to where you live. Draw an X to show where you live. Use a dot to show any schools, churches, stores, or other landmarks near where you live, and write the name of the landmark.	Example <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;"></td> <td style="width: 10%;">Route #2</td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> </tr> <tr> <td></td> <td></td> <td style="text-align: center;">● Grocery Store</td> <td></td> </tr> <tr> <td></td> <td></td> <td style="text-align: center;">Woodchuck Road</td> <td></td> </tr> <tr> <td style="text-align: center;">Public School ●</td> <td></td> <td></td> <td style="text-align: center;">X</td> </tr> </table>		Route #2					● Grocery Store				Woodchuck Road		Public School ●			X	
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If the applicant is unable to sign, who helped the applicant fill out this application? Give name, address and phone number (phone number optional).

D	
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Mail this application to the address provided for your State.

EXH. 1 - Galacki Declaration - p. 6

Mr. Julius Galacki

Los Angeles, CA

June 26, 2011

Via U.S. Mail

The Honorable Dean Logan
Registrar-Recorder / County Clerk, Los Angeles County
P.O. Box 30450
Los Angeles, CA 90030-0450

Re: Write-In Ballot Cast for Julius Galacki in CD 36 Special General Election

Dear Registrar Logan:

I am registered to vote in Congressional District 36, and have attached this letter to my vote-by-mail ballot for the July 12, 2011 special general election for Congressional District 36 (the "General Election").

I hereby cast a *write-in vote* for myself, Julius Galacki, in the General Election.

The Elections Code gives every voter the right "to write the name of *any candidate* for any public office, including that of President and Vice President of the United States, on the ballot of *any election*" as per Elections Code §15340 (emphases added).

Although the Elections Code explicitly gives me the right to vote for a write-in candidate in "any" election, the ballot that your office has provided does not allow me or any other voter to exercise that citizen's right in the General Election. Thus our, i.e. all citizens', fundamental right to vote for a candidate of our choice has been irreparably harmed.

Equally troubling, a new state law bans such write-in votes from being counted in federal and state elections. Namely, Senate Bill 6, which implements Proposition 14's Top Two Primary, *bans every write-in vote from being counted* in the General Election:

A person whose name has been written on the ballot as a *write-in candidate* at the general election ... *shall not be counted*.¹

In other words, if a voter casts a write-in vote in the General Election, *his or her vote will be thrown away*. As Secretary of State Debra Bowen's office has conceded, Senate Bill 6 not only gives "candidates the illusion that they can run as a write-in", but

¹ Part 8606 of Senate Bill 6, *codified at* Elections Code §8606 (emphases added).

Exh. 2 - Galacki Decl.

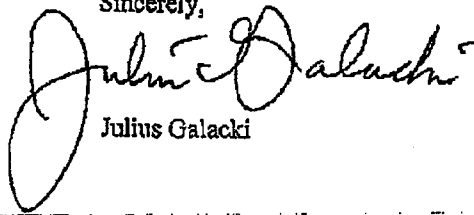
(7)

moreover gives "voters the illusion that they can write in a candidate's name and have [their votes] counted."² This is blatant disenfranchisement.

Senate Bill 6 brazenly violates every Californian's right to run for office and to have his or her vote counted. I am prepared to take all necessary steps to defend and vindicate those fundamental rights.

I may be reached through my attorney, Gautam Dutta, at 415.236.2048; Dutta@BusinessandElectionLaw.com. Thank you for your time and consideration.

Sincerely,



Julius Galacki

² Plaintiffs' May 6, 2011 Motion for Summary Judgment, *Chamness v. Bowen*, 11-CV-1479 (C.D. Cal.) (ODW), at 9:15-9:18 (emphases added), available at <http://gautamdutta.files.wordpress.com/2010/10/plaintiffs-motion-for-summary-judgment-5-6-11-conformed-copy.pdf> (last visited June 26, 2011).

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