

GAUTAM DUTTA, Attorney-at-Law

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October 25, 2011

Molly Dwyer, Clerk of the Court  
Office of the Clerk  
U.S. Court of Appeals for the Ninth Circuit  
P.O. Box 193939  
San Francisco, CA 94119-3939

Re: Chamness v. Bowen (Case No. 11-56449)  
*Filing of Unauthorized Pleadings by Defendants*

Dear Ms. Dwyer,

Our office represents Plaintiffs in the case captioned above. We wish to call the Court's attention to two unauthorized pleadings that were filed yesterday.

On October 11, 2011, Plaintiffs filed a Motion for Reconsideration.<sup>1</sup> Circuit Rule 27-10(b) bans litigants from responding to a Motion for Reconsideration without the Court's permission. To date, the Court has not given Defendants permission to respond to Plaintiffs' Motion for Reconsideration.

Nevertheless, yesterday afternoon both Secretary Bowen and Intervenor-Defendants filed Oppositions<sup>2</sup> to Plaintiffs' Motion for Reconsideration. In so doing, they violated Circuit Rule 27-10(b). Consequently, the Court should disregard their unauthorized pleadings.

Because neither Opposition presents any new arguments, Plaintiffs see no need to file a reply brief. In any event, Defendants have utterly failed to refute Plaintiffs' core claim. Namely, unless the Court decides Plaintiffs' appeal on the merits before **March 9, 2012**, minor-party candidates and the voters who support them could suffer irreparable harm in California's 2012 statewide election.<sup>3</sup>

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<sup>1</sup> Docket No. 16. The next day, Plaintiffs filed a Corrected Motion for Reconsideration. Docket No. 17.

<sup>2</sup> Secretary Bowen's Opp'n to Motion for Reconsideration, Docket No. 19; Intervenor-Defendants' Opp'n to Motion for Reconsideration, Docket No. 18.

<sup>3</sup> Plaintiffs' Corrected Motion for Reconsideration, Docket No. 17, at 2, 4-5 & nn.12-13. See also 28 U.S.C. §1657(a) (case must be expedited if plaintiffs' federal constitutional claims

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Thank you for your time and attention.

Sincerely,

/s/

Gautam Dutta, Esq.

“have merit”); *U.S. v. Hinds County School Bd.*, 417 F.2d 852, 857 (5th Cir. 1969) (desegregation case expedited because the “fundamental constitutional rights of many persons” would have otherwise been “jeopardized, *if not lost* [.]”) (italics added); Circuit Rule 27-12(3) (motion to expedite must be granted if irreparable harm could otherwise occur). Because Plaintiffs have *personally* suffered the *irreparable* harm that they seek to prevent from recurring, the cases cited by Intervenor-Defendants do not apply. *Cf. U.S. v. Hays*, 515 U.S. 737, 746 (1995) (plaintiffs lacked standing because they did not and could not suffer the harm at issue); *Maroni v. Pemi-Baker Regional School Dist.*, 346 F.3d 247, 254 (1st Cir. 2003) (parents of disabled children who are protected by a federal statute have “prudential” standing to bring legal claims on their children’s behalf).

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**CERTIFICATE OF SERVICE**

On Oct. 25, 2011, I electronically filed, via CM/ECF, a copy of the foregoing Letter with the Clerk of the Court of the U.S. Court of Appeals for the Ninth Circuit. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ \_\_\_\_\_

GAUTAM DUTTA