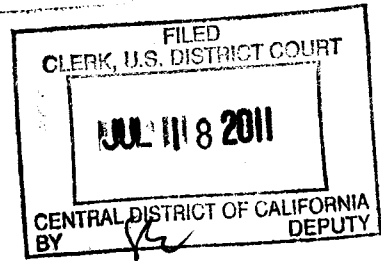


GAUTAM DUTTA, ESQ. (State Bar No. 199326)  
39270 Paseo Padre Parkway # 206  
Fremont, CA 94538  
Telephone: 415.236.2048  
Email: Dutta@BusinessandElectionLaw.com  
Fax: 213.405.2416



Attorney for Intervenor-Applicant

JULIUS GALACKI

LOGGED

2011 JUL 14 PM 4:20  
CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

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.

**REQUEST FOR JUDICIAL NOTICE  
BY INTERVENOR-APPLICANT  
JULIUS GALACKI**

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;

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

COURTROOM: II

*Defendants,*

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

*Intervenors-  
Defendants*

**I. Documents for Which Judicial Notice Is Requested**

Pursuant to Federal Rule of Evidence 201, Intervenor-Applicant Julius Galacki respectfully asks the Court to take judicial notice of the following

1 documents in support of his Ex Parte Application to Shorten Time and Motion to  
2 Intervene. Each document has been attached as an Exhibit to the accompanying  
3 Declaration of Gautam Dutta or Declaration of Julius Galacki:

- 4 A. Exhibit 2 of the Dutta Declaration: Jan. 21, 2011 *Ballot Access*  
5 *News* article entitled "Ballot-Listed Tea Party Candidates Did  
6 Not 'Spoil' Any Election for the Republican Nominee". I  
7 downloaded a copy of this document from <http://www.ballot-access.org/2011/01/21/ballot-listed-tea-party-candidates-did-not-spoil-any-election-for-the-republican-nominee/> (last visited July 13, 2011).
- 8 B. Exhibit 3 of the Dutta Declaration: Nevada Secretary of State's  
9 "Certified List of Candidates to Appear on the Nov. 2, 2010  
10 General Election Ballot". I downloaded a copy of this  
11 document from  
12 <http://nvsos.gov/Modules/ShowDocument.aspx?documentid=1700> (last visited July 13, 2011).
- 13 C. Exhibit 4 of the Dutta Declaration: Registrar Dean Logan's  
14 July 6, 2011 letter to Intervenor-Applicant Julius Galacki's  
15 counsel, Gautam Dutta.
- 16 D. Exhibit 6 of the Dutta Declaration: Secretary Bowen's Jan. 26,  
17 2011 Memorandum to all voter registrars. I downloaded a copy  
18 of this document from  
19 <http://www.sos.ca.gov/elections/ccrov/pdf/2011/january/11005j1.pdf> (last visited July 13, 2011).
- 20 E. Exhibit 7: Secretary of State Debra Bowen's Special Election  
21 Calendar for the May 17, 2011 special primary election in  
22 Congressional District 36. I downloaded a copy of this  
23 document from  
24 <http://www.sos.ca.gov/elections/Special/cd36/primary-calendar.pdf> (last visited July 13, 2011).
- 25 F. Exhibit 8: Secretary of State Debra Bowen's Special Election  
26 Calendar for the July 12, 2011 special general election in  
27 Congressional District 36. I downloaded a copy of this  
28 document from  
<http://www.sos.ca.gov/elections/Special/cd36/general-calendar.pdf> (last visited July 13, 2011).
- G. Exhibit 1 of the Galacki Declaration: Intervenor-Applicant Julius Galacki's voter registration form (mailed to Registrar Logan on June 27, 2011), in which he changed his party registration to the Tea Party.

26 **II. The Court May Take Judicial Notice under FRE 201**

27 The Court may take judicial notice of any fact that is "capable of accurate  
28 and ready determination by resort to sources whose accuracy cannot reasonably be

1 questioned.”<sup>1</sup> Toward that end, a court must take judicial notice if requested by a  
2 party and supplied with the necessary information.<sup>2</sup>

3 As a general rule, a court “may presume that public records are authentic and  
4 trustworthy.”<sup>3</sup> If a party wishes to challenge the authenticity of public records, it  
5 must carry the “burden” of producing “enough negative factors to persuade a court  
6 that a report should not be permitted.”<sup>4</sup>

7 Exhibit 4 of the Dutta Declaration was written by Los Angeles County  
8 Registrar-Recorder / County Clerk Dean Logan; Exhibit 3 of the Dutta Declaration  
9 was published by the Nevada Secretary of State; Exhibit 6 of the Dutta Declaration  
10 was published by Secretary Bowen; and Exhibit 1 of the Galacki Declaration  
11 became a public record after Intervenor-Applicant Galacki mailed it to Registrar  
12 Logan. Because they are public documents, the Court must take judicial notice of  
13 them.

14 The Court may also take judicial notice of the content of media articles.<sup>5</sup>  
15 Exhibit 2 is a media article from *Ballot Access News*. In a case affirmed by the  
16 Second Circuit, the Southern District of New York accepted into evidence the  
17 expert testimony of Richard Winger, the Editor of *Ballot Access News*:

18 Winger, the editor of the *Ballot Access News*, a *monthly newsletter*  
19 *that focuses on legal and political developments related to minor*  
20 *political parties*, testified as an expert regarding voter enrollment  
21 schemes in the United States and the particular burdens that New  
22 York’s voter enrollment scheme imposes on the political rights of  
minor parties and their members. The essential facts established by  
their testimony, *which I credit in its entirety*, are set forth in the  
foregoing sections.

23 <sup>1</sup> Federal Rule of Evidence §201(b).

24 <sup>2</sup> *Id.* §201(b); *see also United States v. Ritchie*, 342 F.3d 903, 909 (9<sup>th</sup> Cir. 2003).

25 <sup>3</sup> *Gilbrook v. City of Westminster*, 177 F.3d 839, 858 (9<sup>th</sup> Cir. 1999).

26 <sup>4</sup> *Id.* at 858 (quoting *Johnson v. City of Pleasanton*, 982 F.2d 350, 352 (9<sup>th</sup> Cir. 1992)).

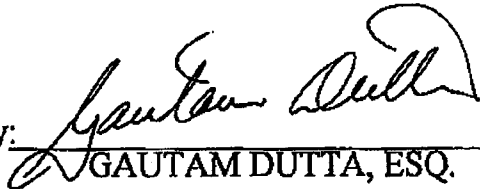
27 <sup>5</sup> *See, e.g., League of United Latin American Citizens v. Wilson*, 131 F.3d 1297, 1305 (9<sup>th</sup>  
28 Cir. 1997) (quoting news articles concerning legal challenge filed to block the implementation of  
a state law); *Heliotrope Gen., Inc. v. Ford Motor Co.*, 189 F.3d 971, 981 (9<sup>th</sup> Cir. 1999) (taking  
judicial notice of information contained in news articles); *Ieradi v. Mylan Laboratories, Inc.*, 230  
F.3d 594, 597-98 (3<sup>rd</sup> Cir. 2000).

<sup>6</sup> *Green Party v. N.Y. State Bd. of Elections*, 267 F.Supp.2d 342, 350 & n.9 (S.D.N.Y. 2003)  
(emphases added), *aff’d*, 389 F.3d 411, 422 (2<sup>nd</sup> Cir. 2004).

1 In addition, the district court noted that Mr. Winger has testified as an expert  
2 witness in thirty states.<sup>7</sup> In this light, the Court may take judicial notice of election  
3 data from the *Ballot Access News* article, for the facts contained within it have been  
4 vetted by Richard Winger, a national expert on minor political parties.

5 Plaintiffs respectfully ask the Court to take judicial notice of all of the  
6 documents listed above.

7  
8 DATED: July 14, 2011

9  
10 By:   
GAUTAM DUTTA, ESQ.

11  
12 Attorney for Intervenor-Applicant  
13 JULIUS GALACKI

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28 <sup>7</sup> *Green Party, supra*, 267 F.Supp.2d at 350 n.9.