

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 Plaintiff

8 MICHAEL CHAMNESS

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

11 MICHAEL CHAMNESS,  
 12 *Plaintiff,*

13 vs.

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

21 *Defendants.*

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

**DECLARATION OF MICHAEL  
 CHAMNESS IN SUPPORT OF  
 MOTION FOR PRELIMINARY  
 INJUNCTION**

HEARING DATE: Mar. 21, 2011  
 HEARING TIME: 1:30 pm  
 JUDGE: Hon. Otis D. Wright  
 II

COURTROOM: TI\_

22 I, Michael Chamness, declare as follows:

23 1. I live and pay taxes in Los Angeles County. I am registered to vote in  
 24 California Congressional District 36 and Senate District 28, with the party  
 25 affiliation of the Coffee Party, a minor (i.e., non-state-recognized) party.

26 2. I have filed a Motion for Preliminary Injunction in this proceeding, in  
 27 my capacity as a prospective candidate for the looming special primary election in  
 28 Congressional District 36 (the "CD 36 Primary") and as a certified candidate who  
 appeared on ballot for the February 15, 2011 special primary election in Senate

1 District 28 (the "SD 28 Primary").

2 3. Although I am affiliated with the Coffee Party, Senate Bill 6 ("SB 6")  
3 forced me to falsely state on the SD 28 Primary ballot that I had "No Party  
4 Preference". A copy of the official sample ballot from the SD 28 Primary has been  
5 attached as Exhibit 1 to the Complaint.

6 4. I have brought both a facial and an as-applied constitutional challenge  
7 to SB 6.

8 5. Recently, both the California Supreme Court and the California Court  
9 of Appeal (First District) denied me permission to intervene in related litigation.

10 6. On July 29, 2010, six plaintiffs (the "State Court Plaintiffs")<sup>1</sup> asked a  
11 San Francisco Superior Court judge to grant a preliminary injunction against SB 6.  
12 The judge denied their request on October 5, 2010.<sup>2</sup>

13 7. Subsequently, State Court Plaintiffs sought mandamus relief from the  
14 California Supreme Court, because SB 6 was poised to be implemented in three  
15 special elections: in Senate District 28, Senate District 17, and Assembly District 4.

16 8. I sought to run for the vacancy in Senate District 28, as a candidate  
17 affiliated with the Coffee Party. In that regard, SB 6 threatened me with imminent,  
18 irreparable harm, because it would force me to falsely state on the ballot that I had  
19 "No Party Preference".

20 9. To avert irreparable harm, I asked the California Supreme Court for  
21 permission to intervene in State Court Plaintiffs' mandamus proceeding, in which  
22 the Secretary of State and Defendant Logan were Real Parties in Interest.<sup>3</sup>  
23 Significantly, Defendant Logan (who administered the SD 28 Primary and will

24 <sup>1</sup> *Mona Field et al. v. Debra Bowen et al.* (San Francisco Superior Court No.  
25 CGC-10-502018).

26 <sup>2</sup> A copy of the Superior Court's Oct. 5, 2010 order denying State Court  
27 Plaintiffs' Motion for Preliminary Injunction has been attached as Exhibit 11 to the  
28 Complaint.

<sup>3</sup> *Mona Field et al. v. Superior Court* (California Supreme Court No.  
S188436).

1 administer the CD 36 Primary) *took no position* with respect to my request to  
2 intervene. In contrast, the Secretary of State opposed my request.

3 10. On December 15, 2010, the California Supreme Court denied my  
4 request to intervene, along with State Court Plaintiffs' underlying petition for  
5 mandamus relief.<sup>4</sup>

6 11. Subsequently, I qualified for and appeared on the SD 28 Primary  
7 ballot.

8 12. By forcing me to falsely state that I had "No Party Preference", SB 6  
9 *inflicted irreparable harm on my fundamental rights* between January 21, 2011 (the  
10 first day voters could cast vote-by-mail ballots) and February 15, 2011 (the day of  
11 the SD 28 Primary).

12 13. State Court Plaintiffs then appealed the Superior Court's denial of  
13 preliminary injunction to the California Court of Appeal (First District).<sup>5</sup> In  
14 response, I asked the Court of Appeal for permission to intervene in that  
15 proceeding, so I could bring an as-applied challenge to SB 6. The Secretary of  
16 State and Defendant Logan are Respondents in that proceeding. Once again,  
17 Defendant Logan (who administered the SD 28 Primary and will administer the CD  
18 36 Primary) *took no position* with respect to my request to intervene, while the  
19 Secretary of State opposed my request.

20 14. On January 31, 2011, the Court of Appeal denied my request to  
21 intervene.<sup>6</sup>

22 15. On or about February 8, 2011, I learned from media reports that Jane  
23 Harman, who was recently re-elected by the 36<sup>th</sup> Congressional District, would

24 <sup>4</sup> A copy of the California Supreme Court's Dec. 15, 2010 order denying my  
25 Motion to Intervene and State Court Plaintiffs' Petition for Writ of Mandate has  
been attached as Exhibit 12 to the Complaint.

26 <sup>5</sup> *Mona Field et al. v. Debra Bowen et al.* (California Court of Appeal No.  
27 A129946).

28 <sup>6</sup> A copy of the California Court of Appeal's Jan. 31, 2011 order denying my  
Motion to Intervene has been attached as Exhibit 13 to the Complaint.

1 resign. According to media reports, her resignation took effect on February 15,  
2 2011.

3 16. I seek to run for the vacancy in the 36<sup>th</sup> Congressional District, as a  
4 candidate affiliated with the Coffee Party.

5 17. Before SB 6 became operative on January 1, 2011, all minor-party  
6 candidates were allowed to state on the ballot that they were "Independent".

7 18. From my experience as a certified candidate in the SD 28 Primary, I  
8 know that (a) SB 6 will ban all minor-party candidates in the CD 36 Primary from  
9 stating their party's name on the ballot, and (b) SB 6 will also ban them from  
10 stating on the ballot that they are "Independent". Instead, SB 6 will force all  
11 minor-party candidates in the CD 36 Primary to falsely state on the ballot that they  
12 have "No Party Preference".

13 19. By forcing me to falsely state that I have "No Party Preference" in the  
14 looming CD 36 Primary, SB 6 threatens me with imminent, irreparable harm.

15 20. On January 5, 2011, the Secretary of State published an online List of  
16 Certified Candidates for the SD 28 Primary. That list, attached as Exhibit 14 to the  
17 Complaint, falsely states that I have "No Party Preference". Subsequently,  
18 Defendant Logan (who administered the SD 28 Primary) published vote-by-mail  
19 and election-day ballots that falsely stated that I had "No Party Preference". A  
20 copy of the SD 28 Primary's sample ballot has been attached as Exhibit 1 to the  
21 Complaint.

22 21. The CD 36 Primary could be held as soon as April 19, 2011. Under  
23 that timetable, voters will be able to cast vote-by-mail ballots beginning March 25,  
24 2011; and the general election (if necessary) will be held on June 14, 2011.

25 22. By forcing me to falsely state on the ballot that I have "No Party  
26 Preference", SB 6 *threatens to inflict imminent, irreparable harm on my*  
27 *fundamental rights as a political candidate* – beginning as early as March 25, 2011  
28 (the first day to cast vote-by-mail ballots) and culminating on February 15, 2011

1 (the date of the SD 28 Election).

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I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 17, 2011, in Venice, California.

DATED: Feb. 17, 2011

Signed:   
Michael Chamness