

In the California Court of Appeal, First District, Division 3

MONA FIELD, RICHARD  
WINGER, STEPHEN A.  
CHESSIN, JENNIFER  
WOZNIAK, JEFF  
MACKLER, and RODNEY  
MARTIN,

*Appellants,*

vs.

DEBRA BOWEN, et al.,

*Respondents;*

ABEL MALDONADO, et al.;

*Intervenors-Respondents;*

CASE NO. A129946

**DECLARATION OF MICHAEL  
CHAMNESS IN SUPPORT OF  
VERIFIED MOTION TO  
INTERVENE BY MICHAEL  
CHAMNESS**

[Arising from the denial of  
Petitioner's Motion for Preliminary  
Injunction on Oct. 5, 2010 by Hon.  
Charlotte Walter Woolard, Dept. 302,  
Superior Court for the County of San  
Francisco (Civic Center), 400  
McAllister St., San Francisco, CA  
94102; 415.551.3723; Case No. CGC-  
10-502018]

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*Attorney for Appellants*

## **DECLARATION OF MICHAEL CHAMNESS**

I, Michael Chamness, declare as follows:

1. I live and pay taxes in Los Angeles County, and am registered to vote in California Senate District 28, with the party affiliation of the Coffee Party, a “non-qualified” (i.e., minor) party.
2. I have filed a Motion to Intervene in this proceeding, in my capacity as a candidate for the February 15, 2011 special primary election in Senate District 28 (hereinafter, the “Special Election”).
3. The seat in Senate District 28 officially became vacant on November 2, 2010, when the late Senator Jenny Oropeza was posthumously re-elected to that position.
4. On or about November 5, 2010, I learned from media reports that Senate Bill 6 (“SB 6”) would be implemented for the Special Election. I also learned that SB 6 would force all minor-party candidates (i.e., candidates from non-qualified parties) to state on the ballot that they have “No Party Preference”.
6. Before SB 6 took effect, all minor-party candidates were entitled to state on the ballot that they were “Independent”.
7. On or about November 6, 2010, I decided to run for the vacant seat in Senate District 28, as a candidate from the Coffee Party. At that time, no date had been set for the Special Election.
8. I will suffer irreparable harm if SB 6 is implemented for the Special Election, because SB 6 will force me to falsely state

on the ballot that I have “No Party Preference”. In a proactive effort to avert such grave harm, I filed a Motion to Intervene on November 24, 2010 in a related writ proceeding (i.e., Petition for Writ of Mandate) before the Supreme Court of California. The underlying Petition for Writ of Mandate (the “Petition”), which sought to enjoin SB 6 from being implemented by all Respondents (including Respondent Dean Logan, the Registrar-Recorder / County Clerk of Los Angeles County), was entitled *Mona Field et al. v. Superior Court of San Francisco County* (Case No. S188346, filed November 24, 2010). Respondent Logan took no position with respect to the Petition and my Motion to Intervene.

9. On November 29, 2010, the Supreme Court asked the Attorney General to file a brief in opposition to the Petition.

10. On December 15, 2010, the Supreme Court denied the Petition and my Motion to Intervene in that proceeding.

11. One day later, the Special Election was set for February 15, 2011.

12. If a candidate has indicated that he or she has “independent” status on his or her voter registration form (i.e., he or she has a party preference for a non-qualified party), Part 325 of SB 6 (the new Section 325 of the Election Code) forces that candidate to state on the ballot that he or she has “No Party Preference”.

13. On January 3, 2011, I filed the Nomination Documents for the vacancy in Senate District 28 with the office of Respondent Logan.

14. On January 4, 2011, Respondent Logan’s office notified me via telephone that I had qualified to appear on the ballot of the Special Election.

15. On January 5, 2011, the Secretary of State published an online Notice (the “Notice”, attached as Exhibit 1) to all candidates for Senate District 28. That Notice, which purported to identify the “party preference” of each candidate, states that I have “No Party Preference”.

16. Also on January 5, 2011, the Secretary of State published an online “Candidate Party Preference History for the Last 10 Years”. That document (attached as Exhibit 2) states that I have “No Party Preference”.

17. According to the Secretary of State’s Special Election Calendar for Senate District 28 (the “Calendar”, attached as Exhibit 3), Respondent Logan was authorized to mail sample ballots to every registered voter in Senate District 28.

18. According to the Calendar, applications for vote-by-mail ballots for the Special Election must be processed beginning January 21, 2011 (i.e., 25 days before the Special Election). Namely, voters who choose to vote by mail will be able to cast their ballots as of that date.

19. By forcing me to falsely state on the ballot that I have “No Party Preference”, SB 6 *will inflict irreparable harm on my fundamental rights as a political candidate* – beginning on January 21, 2011 (the first day to cast vote-by-mail ballots) and culminating on February 15, 2011 (the date of the Special Election).

20. Because SB 6 will inflict irreparable harm on my fundamental rights as a candidate, I am entitled to both mandatory and permissive intervention. Towards this end, I have filed a timely Motion to Intervene in this proceeding.

21. Appellants have brought a facial constitutional challenge against SB 6. If the Court grants me leave to intervene, I will bring an as-applied challenge to the constitutionality of SB 6, because SB 6 will inflict irreparable harm on my fundamental rights beginning on January 21, 2011 – four days before the filing deadline for any opposition to this Motion to Intervene.

22. I fully agree with Appellants' litigation strategy, and have retained their attorney as my counsel. If permitted to intervene, I will join all arguments that have been and will be raised in Appellants' papers, and I will not independently raise any other arguments.

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

Executed on January 10, 2011, in Los Angeles, California.

Signed: \_\_\_\_\_

Michael Chamness