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FILED  
 ALAMEDA COUNTY  
 JAN 11 2012  
 CLERK OF THE SUPERIOR COURT  
 By \_\_\_\_\_ Deputy

13 *Attorneys for Intervener-Defendants*  
 14 INDEPENDENT VOTER PROJECT, DAVID  
 15 TAKASHIMA, ABEL MALDONADO &  
 16 CALIFORNIANS TO DEFEND THE OPEN  
 17 PRIMARY

18 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 19 IN AND FOR THE COUNTY OF ALAMEDA

20 MICHAEL RUBIN, MANJA ARGUE, STEVE  
 21 COLLETT, MARSHA FEINLAND, CHARLES  
 22 L. HOOPER, KATHERINE TANAKA, C.T.  
 23 WEBER, CAT WOODS, GREEN PARTY OF  
 24 ALAMEDA COUNTY, LIBERTARIAN PARTY  
 25 OF CALIFORNIA, and PEACE AND  
 26 FREEDOM PARTY OF CALIFORNIA,

Case No.: RG11605301  
 ASSIGNED FOR ALL  
 PURPOSES TO JUDGE  
 LAWRENCE JOHN APPEL

**SIGNED COMPLAINT IN  
 INTERVENTION  
 (C.C.P. § 387)**

27 *Plaintiffs,*  
 28 vs.  
 29 DEBRA BOWEN, in her official capacity as  
 30 California Secretary of State,  
 31 *Defendant.*

32 INDEPENDENT VOTER PROJECT, DAVID  
 33 TAKASHIMA, ABEL MALDONADO &  
 34 CALIFORNIANS TO DEFEND THE OPEN  
 35 PRIMARY,  
 36 *Intervener-Defendants.*

BY FAX

1           1.       With leave of Court, the Independent Voter Project (formerly known  
2 as California Independent Voter Project), David Takashima, Abel Maldonado, and  
3 Californians to Defend the Open Primary (hereinafter “Interveners”) hereby  
4 intervene in this action as defendants, and do hereby seek an order of this Court  
5 denying any relief to Plaintiffs.

6           2.       Plaintiffs commenced this action on or about November 21, 2011, by  
7 filing a Verified Complaint for Declaratory, Injunctive and Other Relief. Plaintiffs  
8 seeks an order enjoining Defendant Secretary of State from implementing and  
9 enforcing Proposition 14, California’s new Top Two Candidate Open Primary law,  
10 and S.B. 6, a statutory scheme enacted by the California Legislature on February  
11 19, 2009 to implement Proposition 14.

12           3.       Intervener INDEPENDENT VOTER PROJECT (“IVP”) is a nonprofit  
13 corporation, founded to represent and advocate for the full engagement of non-  
14 partisan voters in California’s electoral process. Proposition 14’s Top Two Open  
15 Primary system has been a major reform project of Intervener IVP for several years  
16 on which it has expended considerable resources. It was “directly involved in  
17 drafting and sponsoring”—indeed, was the initial drafter—of the measure that  
18 became Proposition 14, and the SB6 legislation. *Perry v. Brown*, 52 Cal. 4th 1116,  
19 1143 (2011). It expended significant resources advocate for placement of the Top  
20 Two Open Primary before the voters. The Top Two Open Primary plan is a major  
21 accomplishment of IVP, and declaring it inoperative would severely harm IVP’s  
22 advocacy for and programs for DTS voters, and detract for IVP’s reputation as an  
23 effective advocate for DTS voters.

24           4.       The Top Two Open Primary plan also directly benefits DTS voters,  
25 including those affiliated with IVP, by granting them the right to vote in all primary  
26 elections and to have access to all electoral ballots on the same terms and  
27 conditions as all of the California voters. These rights will be stripped away if  
28 plaintiffs are successful in this action.

1           5.     DAVID TAKASHIMA, a member of the Board of Directors of IVP and  
2 a registered DTS voter, is also a proposed intervener who, but for Proposition 14,  
3 would not have the right to vote in primary elections. Proposition 14 granted DTS  
4 voters new constitutional and statutory rights to participate in primary elections—  
5 where the ultimate winner in the elections is often decided—that they did not have  
6 under the pre-existing system.<sup>1</sup>

7           6.     Intervener ABEL MALDONADO is a registered California voter, the  
8 former Lieutenant Governor of the State of California, a former member of the  
9 California Senate, and the legislative author and sponsor of both SCA 4, a  
10 constitutional amendment that became Proposition 14, and SB 6. SCA4 was placed  
11 on the June 2010 ballot by SB3X19, one of a series of bills enacted by the  
12 Legislature and signed into law as part of 2009's budget package. In a legislative  
13 compromise negotiated by then-Senator MALDONADO that resulted in passage of  
14 the budget package, the Legislature placed SCA 4 on the ballot. As a result of the  
15 compromise, the budget package passed by one vote, intervener MALDONADO's.

16           7.     Intervener MALDONADO is a candidate for congressional office in  
17 November 2012. That office would be impacted by Proposition 14, and Mr.  
18 MALDONADO has an obvious interest in the rules by which that election will be  
19 conducted. Moreover, Mr. MALDONADO has broad political appeal across party  
20 lines and with independent "decline to state voters" (DTS voters) because of his  
21 major accomplishments for political reform, including authorship of Proposition  
22 14, perhaps the most important legislative and electoral success of his government  
23 reform platform. Proposition 14 will allow Intervener MALDONADO now to  
24 campaign in primary elections for the votes of DTS voters, who, without  
25 Proposition 14 would have no constitutional right to vote in primary elections.  
26 Intervener MALDONADO, as legislative author of Proposition 14, has previously

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28           <sup>1</sup> Under the pre-existing system, DTS voters were also precluded from being a  
candidate at the primary election on an equal footing with candidates of the qualified  
political parties.

1 been granted leave to intervene in pre-election litigation challenging the ballot title  
2 and summary and ballot label for Proposition 14.

3 8. Enjoining SB6 and declaring Proposition 14 unenforceable would  
4 diminish one of Intervener MALDONADO's most important legislative  
5 accomplishments, undermine his campaign on a reform platform for Congress  
6 centered around his Top Two Open Primary accomplishment, and deny him the  
7 ability to campaign in the future for the votes of DTS voters and voters registered  
8 with other political parties in primary elections.

9 9. Intervener CALIFORNIANS TO DEFEND THE OPEN PRIMARY  
10 ("CADOP") is a California nonprofit corporation, formed before Proposition 14 was  
11 passed by California's voters. Its sole purpose was and is to educate the public  
12 about, and to advocate for open, nonpartisan primary elections in California,  
13 allowing voters to cross party lines in elections for Legislature, statewide elected  
14 officials and congressional districts, and to defend Proposition 14 in litigation. As  
15 part of its mission (and to comply with California's Political Reform Act, *see* Cal.  
16 Gov't Code § 81000 *et seq.*), CADOP created and administered a political  
17 committee, Yes on 14—Californians For An Open Primary, that successfully  
18 advocated for the adoption of Proposition 14 by California voters, expending \$4.75  
19 million in the process. The Yes on 14 committee was the only political committee  
20 formed in support of Proposition 14. Because the political parties and their  
21 leadership almost universally opposed Proposition 14, CADOP's advocacy was  
22 crucial to the passage of the measure at the June 8, 2010 election. CADOP has  
23 previously been granted leave to intervene (through the Yes on 14 committee) in  
24 pre-election litigation challenging the ballot title and summary and ballot label for  
25 Proposition 14.

26 10. CADOP has a vital continuing interest in the validity of the Top Two  
27 Open Primary Act. Enjoining SB6 and declaring Proposition 14 unenforceable  
28 would render a nullity all of the considerable effort and millions of dollars in

1 expenditures to advocate for the passage of Proposition 14.

2 11. IVP, Mr. MALDONADO and CADOP have previously been granted  
3 leave to intervene as defendants, along-side the Secretary of State, in two other  
4 lawsuits to defend against challenges to Proposition 14: *Field v. Bowen*, Case No.  
5 CGC-10-502018 (San Francisco Super. Ct. filed July 28, 2010) and *Chamness v.*  
6 *Bowen*, Case No. 11-cv-01479-ODW (FFMx) (C.D. Cal. filed Feb. 17, 2011).

7 12. In an appeal in *Field* (in which IVP, Mr. MALDONADO and CADOP  
8 participated as parties), the California Court of Appeal recently rejected a facial  
9 challenge to Proposition 14/SB 6. *Field v. Bowen*, 199 Cal. App. 4th 346 (1st Dist.  
10 Sept. 19, 2011). These interveners have since filed a motion for judgment on the  
11 pleadings in the San Francisco Superior Court, seeking final judgment on the basis  
12 of the Court of Appeal decision.

13 13. In *Chamness*, the federal district court rejected an as-applied  
14 constitutional challenge to Proposition 14/SB 6 and granted judgment in favor of  
15 Defendant elections officials and Intervener-Defendants IVP, Mr. MALDONADO  
16 and CADOP. *Chamness v. Bowen*, 2011 U.S. Dist. LEXIS 94876 (C.D. Cal. Aug. 23,  
17 2011). An appeal of that judgment is currently pending before the Ninth Circuit.

18 14. Intervention is proper under Code of Civil Procedure § 387(a) & (b)  
19 because interveners have a direct, unique and substantial interest in the outcome  
20 of this litigation and those interests are not adequately represented by the existing  
21 parties. Interveners' interests clearly outweigh plaintiffs' interest in excluding  
22 them from the action.

23 15. This application for intervention is timely. This action was filed just  
24 two weeks ago. The deadline for defendants to file an answer is still several weeks  
25 off, and no other proceedings have taken place in this action.

26 WHEREFORE, Interveners pray for judgment as follows:

27 That the Court deny any relief to Plaintiffs, and that interveners be awarded  
28 costs of suit and such other further relief as the Court deems just and proper.

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Dated: January 9, 2012

Respectfully submitted,  
NIELSEN MERKSAMER  
PARRINELLO GROSS & LEONI LLP



By: \_\_\_\_\_  
Christopher E. Skinnell  
*Attorneys for Intervener-Defendants*  
INDEPENDENT VOTER PROJECT,  
DAVID TAKASHIMA, ABEL  
MALDONADO & CALIFORNIANS TO  
DEFEND THE OPEN PRIMARY

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**PROOF OF SERVICE**

I am employed in the County of Marin, State of California. I am over the age of 18 and not a party to the within cause of action. My business address is, 2350 Kerner Boulevard, Suite 250, San Rafael, California 94901.

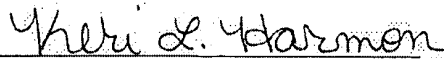
On January 11, 2012, I caused the foregoing document described as **SIGNED COMPLAINT IN INTERVENTION (C.C.P. § 387)** to be served on the individuals listed below as follows:

Dan Siegel, Esq. Michael Siegel, Esq. Siegel & Yee 499 14th Street, #220 Oakland, CA 94612 Ph: (510) 839-1200 Email: <a href="mailto:danmsiegel@gmail.com">danmsiegel@gmail.com</a> Email: <a href="mailto:michaeljwsiegel@gmail.com">michaeljwsiegel@gmail.com</a> (Attorneys for Plaintiffs)	Mark Beckington, Esq. Deputy Attorney General Office of the Attorney General 300 South Spring St., Suite 1702 Los Angeles, CA 90013-1230 Ph: (213) 897-1096 Email: <a href="mailto:mark.beckington@doj.ca.gov">mark.beckington@doj.ca.gov</a> (Attorney for Defendant Debra Bowen)
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15 x **BY U.S. MAIL:** By following ordinary business practices and placing for  
16 collection and mailing at 2350 Kerner Blvd., Suite 250, San Rafael,  
17 California 94901 a true copy of the above-referenced document(s), enclosed  
18 in a sealed envelope; in the ordinary course of business, the above  
19 documents would have been deposited for first-class delivery with the  
United States Postal Service the same day they were placed for deposit, with  
postage thereon fully prepaid.

20 x **BY ELECTRONIC SERVICE:** By transmitting by email to the above  
21 party(ies) at the above email addresses.

22 Executed in San Rafael, California on January 11, 2012. I declare under  
23 penalty of perjury, under the laws of the State of California, that the foregoing is  
24 true and correct.

25  
26   
Keri L. Harmon