

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT, DIVISION ONE

MICHAEL RUBIN, et al.,

Plaintiffs and Appellants,

Case No. A140387

v.

**DEBRA BOWEN, in her official capacity as
California Secretary of State,**

Defendant and Respondent,

INDEPENDENT VOTER PROJECT, et al.,

Interveners and Respondents.

Alameda County Superior Court, Case No. RG11605301
Hon. Lawrence John Appel, Judge

**RESPONDENT DEBRA BOWEN'S RESPONSE
TO AMICUS LETTER OF THE GREEN PARTY
OF CALIFORNIA**

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Respondent Debra Bowen files this response to the amicus letter of the Green Party of California. All but one of the arguments that amicus curiae asserts mirror those previously asserted by Appellants (including appellant Green Party of Alameda County), and have been fully rebutted in Respondent Bowen's June 18 response brief. While, as a general rule, an amicus curiae may not raise new issues, Respondent Bowen nonetheless files this response to address the irrelevance of amicus curiae's single new argument. (*Bruno v. Superior Court* (App. 1 Dist. 1990) 219 Cal.App.3d 1359, 1365; *Pratt v. Coast Trucking, Inc.* (1964) 228 Cal.App.2d 139, 143 [amicus curiae may not "launch out upon a juridical expedition of its own unrelated to the actual appellate record."].)

The amicus curiae's primary (and only unique) argument that "Proposition 14's onerous filing fees have severely impaired the Green Party's ability to recruit and support candidates for state and federal office," both misstates Proposition 14 and is irrelevant to this appeal. (Aug. 6, 2014 Amicus Letter, at p. 7.) Proposition 14 did not change candidate filing fees. Rather, Proposition 14 amended the California Constitution to replace the party primaries with one open primary for state and congressional offices. (Cal. Const., art. II, § 5, subd. (a); see *Field v. Bowen* (App. 1 Dist. 2011) 199 Cal.App.4th 346, 351.)

Amicus curiae's complaint about filing fees is actually directed towards the repeal of former Election Code section 8106, subdivision (a)(6), which had provided a petition in lieu of filing fee exemption to a party nominee. (Former Elec. Code § 8106, subd. (a)(6), added by Stats. 1994, ch. 920 (S.B. 1547), § 2 and repealed by Stat. 2012, ch. 3 (A.B. 1413), § 18, eff. Feb. 10, 2012.) This exemption was repealed by Assembly Bill 1413, not by Proposition 14, and is not part of the appellants' claims in this case. Amicus curiae's argument is thus irrelevant to this appeal.

In addition to arguing an issue not presented by the appeal, amicus curiae repeatedly makes reference to purported facts without citation to the record or other authority. Such unsubstantiated assertions should be disregarded.

Dated: August 18, 2014

Respectfully submitted,

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/s/ Peter H. Chang

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Rubin, Michael et al. v. Debra Bowen**
No.: **A140387**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On August 18, 2014, I served the attached **RESPONDENT DEBRA BROWN'S RESPONSE TO AMICUS LETTER OF THE GREEN PARTY OF CALIFORNIA** by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

The Honorable Lawrence J. Appel
Judge
Alameda County Superior Court
1221 Oak Street
Department 16
Oakland, CA 94612

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on August 18, 2014, at San Francisco, California.

V. Sanchez

Declarant

/s/ V. Sanchez

Signature