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CLERK U.S. DISTRICT COURT  
 CENTRAL DIST. OF CALIF.  
 RIVERSIDE

BY: 

Attorney for ELISE BROWN, Plaintiff

IN THE UNITED STATES DISTRICT COURT  
 FOR THE CENTRAL DISTRICT OF CALIFORNIA

**CV 12 - 05547 PA**

(SPX)

ELISE BROWN,

CASE No.

Plaintiff,

COMPLAINT FOR INJUNCTIVE  
 AND DECLARATORY RELIEF

v.

DEBRA BOWEN, California  
 Secretary of State

[Fourteenth Amendment to United  
 States Constitution; 42 USC 1983;  
 Section 2 of the Voting Rights Act, 42  
 USC 1973]

Defendant.

**I. THE NATURE OF THE CASE**

1. This is an action for declaratory and injunctive relief to enforce the provisions of the Fourteenth and Fifteenth Amendments of the Constitution of the United States and 2 of the Voting Rights Act of 1965 ("VRA"), as amended in 1982 or more commonly known of as 42 U.S.C. 1973, and to prevent deprivation under color of state law, ordinance, regulation, custom or usage of the rights, privileges and immunities secured by the aforementioned federal constitutional provisions and statute, and more specifically under the VRA's 1982 reauthorization held that "minorities had a right [to not just vote] but to elect representatives of their choice", a right, that is now factually impossible in the

1 upcoming November 2012 election for the vast majority of African Americans in  
2 the 8<sup>th</sup> Congressional District because the Top 2 Primary law has left the field with  
3 two candidates for the November election that are openly hostile to the rights and  
4 interests of African American voters in the 8<sup>th</sup> Congressional District even were it  
5 not for the significant traditional pro-Democrat voting history of African  
6 Americans.

7       2. This action would have not been ripe for adjudication until such time  
8 the election results were in and the resulting injury to the rights of African  
9 Americans to participate in the general election in the 8<sup>th</sup> Congressional District  
10 contest for Congress were concrete.

11       3. Additionally, this is an action for declaratory to obtain a ruling that  
12 California's Proposition 14 entitled the "Top Two Primaries Act [which took  
13 effect April 19, 2011] that modified Article II, Section 5 of the California  
14 Constitution and Section 6 of Article II of the California Constitution, is  
15 unconstitutional as violating ELISE BROWN's rights in the 8<sup>th</sup> Congressional  
16 District in that:

17       (a) the first and fourteenth amendment right to freedom of association,  
18 which protects the freedom to join and participate in the general election process  
19 in furtherance of common political beliefs, which by its nature includes the right to  
20 select and be able to vote for party nominees in the general elections [as per  
21 United States Supreme Court in *Democratic Party of the United States of America*  
22 *v Wisconsin ex rel La Follette*, 450 US 107 (1981) and reaffirmed in *California*  
23 *Democratic Party v Jones* 530 US 567, 573-74 (2000)], the right of qualified  
24 voters to cast their votes effectively ["which ranks amongst our most precious  
25 freedoms" per *Anderson v Celebrezze*, 460 U.S. 780, 787-88, quoting *Williams v*  
26 *Rhodes*, 393 U.S. 23, 30-31] and the right to have ideas compete through general  
27 election candidates from each of the parties, is abridged as in the Top Two  
28 Primaries Act, the top two candidates present race-hostile policy positions

1 including but not limited to Craig Imus (the top vote getter in the 8<sup>th</sup> Congressional  
 2 District) wanting to only uphold the Constitution as it was written (which did not  
 3 recognize that anyone had the right to vote other than white males and only  
 4 counted African Americans as three-fifths of a person under Section 2 of Article 1  
 5 of the United States Constitution) and both Craig Imus and Paul Cook not  
 6 recognizing the right of women to control their reproductive health decisions, both  
 7 major issues for people of color in general elections such as the one coming up in  
 8 November. Paul Cook voted against an anti-discrimination bill (AB 1450 which  
 9 prohibited discrimination against unemployed workers, a class African Americans  
 10 lead percentage-wise in California, SB 185 which allowed race, ethnicity and  
 11 gender to be considered in college admission decisions).

12 (b) The retained right to vote in a federal general election for a democrat, a  
 13 practice that has existed all of Plaintiff's adult life and since the first election after  
 14 California was admitted to the Union, is a substantive due process right protected  
 15 under the 14<sup>th</sup> Amendment & Bush v Gore (2000), which recognized that State  
 16 citizens had rights in federal elections under the substantive due process clause of  
 17 the United States Constitution, rights now abridged by the conservative-only  
 18 republican-only general election in the 8<sup>th</sup> Congressional District./1

19 (c) California Election Code Section 8147 authorizes and directs the  
 20 California Secretary of State to issue certificates of nomination (note nomination  
 21 is singular) to candidates for Congress, which is contradicted when nomination is  
 22 of people from the same political party, an enlargement of power under statute.

23 //

24 //

25 1/ Districts with two republican "nominees" includes the 31<sup>st</sup> with Bob Dutton and Gary Miller,  
 26 leaving top vote getting democratic candidate Pete Aguilar out of the November general election  
 27 & in the 8<sup>th</sup> top Democratic vote getter Jackie Conaway will similarly not be in the general  
 28 election either. Districts where the two top voters are democrats, which could be affected by a  
 decision in this case include the 15<sup>th</sup> (Eric Stalwell-D), the 30<sup>th</sup> (Howard Berman-D), 33<sup>rd</sup> (Chris.  
 David-R), 43<sup>rd</sup> (Bob Flores-D), 44<sup>th</sup> (Laura Richardson-D) & the 40<sup>th</sup> (David Sanchez-D).

## **II. JURISDICTION**

4. The jurisdiction of this Court is invoked as to the Voting Rights Act under Title 28 of the United States Code, 1331, 1343(3), 1343(4) and 2201, this suit being authorized by Title 42 of the United States Code, 1983.

5. The jurisdiction of this Court as to the associational right claims is based on the common law articulated in Democratic Party of the United States of America v Wisconsin ex rel La Follette, 450 US 107 (1981) and reaffirmed in California Democratic Party v Jones [530 US 567, 573-74 (2000)], which recognized that “substantial intrusion into [ ] associational freedom” occurs when people are deprived of the right to vote for their candidate in the November general election for federal offices.

## **III. PARTIES**

6. Plaintiff Elise Brown is an African American adult citizen, a long time member of the California Democratic Party, the San Bernardino County Democratic Central Committee by election, the California State Democratic Party’s Central Committee, an officer of the Adelanto-Victorville Democratic Club and proceeds in her own behalf and of those person similarly situated.

7. Plaintiff desires to participate in the electoral and political process for the House of Representatives and to have her and all those similarly situated persons’ votes counted on an equal basis with white citizens of San Bernardino County by being able to vote for a Democratic candidate in the general election.

8. Defendant Secretary of State, Deborah Bowen is sued in her official capacity only to the extent of her issuing a certificate of nomination for Congressional races pursuant to State Election Code Section 8147 pursuant to the Top 2 Primary law. As Bowen is the Chief Election Officer of the State of California and has responsibility for the general supervision and administration of the election laws, is responsible to obtain and maintain uniformity in the application and administration of the election laws and issue a certificates of

1 nomination for congress for each of the top voters for each party.

2 9. At all relevant times set out herein, defendant was and have been  
3 acting under color of the statutes, ordinances, regulations, customs and usages of  
4 the State of California.

#### 5 IV. FACTS

6 10. Plaintiff as a democrat and an African American voter represents a  
7 group that predominately votes for Democrats for federal offices in primary and  
8 general elections and the registration numbers bears that disparity out. Since 1964  
9 when African Americans voted democratic 82% of the time, 92% of the time in  
10 1968 and with the exception of 1972, 1984 and the 1992 elections, African  
11 Americans would continue to give at least 80% of the collective votes to  
12 Democrats.

13 11. The 8<sup>th</sup> Congressional Districts break down as 8% African American,  
14 35% Hispanic, 50% White.

15 12. Pursuant to California's Proposition 14 entitled the "Top Two  
16 Primaries Act", which took effect April 19, 2011, modified Article II, Section 5 of  
17 the California Constitution and Section 6 of Article II of the California  
18 Constitution, effectively deprives African American voters of the right to vote:

19 (a) Prohibiting political parties which historically align with African  
20 American voters from nominating candidates in a primary;

21 (b) Prohibits plaintiff and all those similarly situated from supporting a  
22 federal candidate from their own political party of choice in the general election  
23 by eliminating their candidate should he or she not be a top two vote getter in the  
24 primary;

25 (c) Prohibiting the highest Democratic vote getter from representing the  
26 democratic party in the November 2012 general election for the first time in 160  
27 years of California and United States history;

28 (d) Creating voter confusion when they see only 2 republicans to vote for,

1 having come to the polls expecting to have a choice of voting for a democratic  
2 candidate of their own choosing;

3 (e) Creating a severe restriction upon the exercise of their voting rights in  
4 that for the first time, they will have to decide whether to vote at all for a non-  
5 democratic candidate;

6 (f) Prohibiting write in voters that are Democrats from seeking to participate  
7 in the November 2012 election;

8 (g) Taking away a fundamental right to be able to vote for a party champion  
9 in a federal race in the general election;

10 (h) By having only republicans in the general election for a federal office,  
11 depriving plaintiff and all those similarly situated of the right to associate by  
12 supporting and voting for a Democratic candidate in the general election for  
13 Congress;

14 (i) By the Secretary of State upholding a law like the Top 2 Primary which  
15 compels the citizens to vote in a top two open primary in a district that has a  
16 substantial advantage registration-wise for republicans as created by the so-called  
17 non-partisan commission, the state is effectively empowering the Republican party  
18 by declaring to plaintiff and all those similarly situated, that they no any longer  
19 have a right to vote for a democratic candidate of their choice, in effect a state  
20 action stripping political choice and are further stripping the people like plaintiff  
21 and those similarly situation from having the back-up valve of being able to run a  
22 write-in candidate of their choice;

23 (j) By having a Top 2 Primary System in a republican registration advantage  
24 district, plaintiff and all those similarly situation are coerced to associate with the  
25 republican candidates selected, should they wish to exercise their right to vote, by  
26 voting for persons that philosophically and politically are diametrically opposed to  
27 their interests and views in violation of plaintiff's and those similarly situated's  
28 right to NOT associate or not exercising the fundamental right to vote.



1 (k) Debra Bowen as the California Secretary of State is to issue under  
 2 Elections Code Sec. 8147 a certificates of "nomination" ( a singular) reference,  
 3 for each top vote getter for each party, and to issue certificates of nomination for  
 4 people from the same party, facially contradicts the plain meaning of term.

5 13. The political processes leading to the general election in 2012 and  
 6 every two years thereafter in San Bernardino County are not equally open to  
 7 participation by African-Americans, in that African-Americans have less  
 8 opportunity than other members of the electorate to participate in the political  
 9 process and to elect candidates of their choice because of the Top 2 Primary.

10 14. African-Americans in San Bernardino County bear the effects of  
 11 discrimination in such areas as education, employment and health, which hinder  
 12 their ability to participate effectively in the political process.

13 15. In the entire history of San Bernardino County, no African-American  
 14 has ever been elected to any countywide office and with the Top Two primary,  
 15 with 8.9% of San Bernardino County being African American, .6% in Inyo County  
 16 and .3% in Mono County [county-wise numbers per the 2012 Census] and a  
 17 created 10% registration advantage of Republican over democrat and a nearly 20%  
 18 decline-to-state budge on top of that, African American voters will have added to  
 19 their burden the result of having to choose between two conservative republicans  
 20 that garnered only 30.8% of the vote.

## 21 **VI. EQUITABLE RELIEF**

22 16. There is a real and actual controversy between the parties and the  
 23 issue is ripe for adjudication. Plaintiffs have no adequate remedy at law other  
 24 than this action for injunctive and declaratory relief and to deny relief herein,  
 25 due to the percentage to population of African Americans, will strip African  
 26 Americans of their associational and other related civil rights as set forth herein  
 27 for the next decade.

28 17. Plaintiffs are and will continue to suffer irreparable injury as a result

1 of the acts of Defendant complained of herein and that injury will continue unless  
2 declared to be unlawful and enjoined by this Court.

### 3 V. CAUSES OF ACTION

#### 4 **FIRST CLAIM FOR RELIEF**

5 *Fourteenth Amendment to the United States Constitution 42 U.S.C. §1983*

6 18. Plaintiffs hereby reallege and incorporate by reference each of the 16  
7 foregoing paragraphs.

8 19. Unless enjoined by this Court, Defendant on or about July 13,  
9 2012 will prepare Certificates of Nomination for Congressional candidates under  
10 California Election Code Sec. 8147.

11 20. Defendant, acting under color of state law, threatens to deprive  
12 Plaintiffs including the individual Plaintiff of their fundamental right to vote.

13 21. Any holding (of using the Top 2 Primary results) results in the denial  
14 or abridgment of the right of plaintiff's fundamental right under the 14<sup>th</sup>  
15 Amendment in that Democrats have had the right to have a party representative in  
16 the general election for Congress since California joined the Union over 160 years  
17 ago. To now abolish that right by State Initiative and allow the Secretary of State  
18 to prepare 2 nomination certificates for people from the same political party,  
19 violates plaintiff's and all those similarly situated's substantive due process right,  
20 right of association and those rights otherwise reserved to the state, but not  
21 enumerated in the Bill of Rights.

22 22. Plaintiff and all those similarly situated have always been able to vote  
23 for a party champion since the first days of the republic, creating a federal voting  
24 right that should not be abridged by State Action under the 14<sup>th</sup> Amendment and  
25 the rationale in Bush v Gore.

26 23. Defendant, acting under color of state law, threatens to violate  
27 Plaintiffs' rights to equal protection, due process, and the privileges or immunities  
28 of citizens of the United States guaranteed by the Fourteenth Amendment to the



1 United States Constitution in that for the next decade, plaintiff and those similarly  
2 situated will not be able to exercise their associational rights by voting for a  
3 candidate that shares their concerns and priorities.

4 **SECOND CLAIM FOR RELIEF**

5 *Section 2 of the Voting Rights Act, 42 U.S.C. §1973*

6 24. Plaintiff hereby realleges and incorporate by reference each of the 22  
7 foregoing paragraphs.

8 25. Section 2 of the Voting Rights Act, 42 U.S.C. §1973, prohibits voting  
9 practices and procedures that result in the denial or abridgement of the right to  
10 vote on account of race, color, or linguistic minority status.

11 26. The holding of using the Top 2 Primary results in the denial or  
12 abridgment of the right of Plaintiffs to vote on account of race or color in  
13 violation of 2 of the Voting Rights Act of 1965, 42 U.S.C. 1973, and these  
14 election structures were adopted and have the effect of diluting, minimizing and  
15 canceling out the voting strength of African-Americans in violation of the rights  
16 of Plaintiffs secured by the Fourteenth and Fifteenth Amendments of the  
17 Constitution of the United States, and 2 of the Voting Rights Act of 1965, 42  
18 U.S.C. 1973 or in resulting dilution, minimizing and canceling out by a reckless  
19 disregard of the substantial likelihood of creating a district where a democrat  
20 would not be available for an African American to vote for, creating not only a  
21 denial of choice and abridgement of associational rights in a federal election.

22 27. Unless enjoined by this Court, Defendant will on July 13, 2012  
23 prepare Certificates of Nomination for Congressional candidates under California  
24 Election Code Sec. 8147 a system of voting that abridges Plaintiffs' right to vote  
25 for the next decade in violation of Section 2 of the Voting Rights Act.

26 **PRAYER FOR RELIEF**

27 WHEREFORE, PLAINTIFFS respectfully request that this Court enter  
28 judgment in their favor and the following relief:

1 (1) Issue a temporary restraining order or such other preliminary injunctive  
2 relief as is appropriate prior to the Secretary of State's scheduled preparation of  
3 the certificates of nomination on July 13, 2012 so that the court can first decide if  
4 California's Proposition 14 entitled the "Top Two Primaries Act [which took  
5 effect April 19, 2011] that modified Article II, Section 5 of the California  
6 Constitution and Section 6 of Article II of the California Constitution, violates the  
7 1982 Reauthorization of the Federal Voting Rights Act by eliminating from the  
8 November 2012 general election the top vote getting democratic candidate;

9 (2) Alternatively to No. (1), issue a temporary restraining order or such  
10 other preliminary injunctive relief as is appropriate prior to the Secretary of State's  
11 scheduled preparation of the certificates of nomination on July 13, 2012 so that the  
12 court can decide if California's Proposition 14 entitled the "Top Two Primaries  
13 Act [which took effect April 19, 2011] that modified Article II, Section 5 of the  
14 California Constitution and Section 6 of Article II of the California Constitution,  
15 violates the 1982 Reauthorization of the Federal Voting Rights Act, by abolishing  
16 160 years of voting rights for ALL Californians that they be able to vote in a  
17 general election for a candidate from the party they are members of, is unlawful;

18 (3) Issue a temporary restraining order or such other preliminary injunctive  
19 relief as is appropriate based on the plain reading of Election Code 8147 which  
20 refers to nomination certificates in the singular, requiring under historical tradition  
21 and the plain meaning of the words, one nomination, for one person from each  
22 party that ran;

23 (4) Alternatively, issue a temporary restraining order or such other  
24 preliminary injunctive relief as is appropriate prior to the Secretary of State's  
25 scheduled preparation of the certificates of nomination on July 13, 2012 so that the  
26 court can decide if California's Proposition 14 entitled the "Top Two Primaries  
27 Act [which took effect April 19, 2011] that modified Article II, Section 5 of the  
28 California Constitution and Section 6 of Article II of the California Constitution,

1 violates the first, fourteen and fifteen amendments of the United States  
2 Constitution;

3 (5) Enter a declaratory judgment that ELISE BROWN's and all those  
4 Democrats similarly situated's rights are violated by California's Proposition 14  
5 entitled the "Top Two Primaries Act" [which took effect April 19, 2011] that  
6 modified Article II, Section 5 of the California Constitution and Section 6 of  
7 Article II of the California Constitution, violates rights under Section 2 of the  
8 Voting Rights Act as amended in 1982;

9 (5) Enter a declaratory judgment that ELISE BROWN's and all those  
10 Democrats similarly situated's rights are violated first, fourteenth and fifteenth  
11 amendment right to freedom of association, to cast their votes effectively;

12 (6) To restore the previous system that allowed the top vote getter from each  
13 party to stand for election in the November 2012 election so to obtain and  
14 maintain constitutional uniformity;

15 (7) *Alternatively*, should the court not set this motion and rule on it before  
16 the Secretary of State prepares its certificates of nomination for Congressional  
17 candidates, that the court, should it rule on the merits in plaintiff's favor, vacate  
18 and expunge from the record the certificates of nomination prepared and issued,  
19 and issue an order declaring the top voter getter from each party be only issued  
20 certificates of nomination for the November 2012 general election.

21 (8) To award Plaintiffs the costs and expense of this action together with  
22 their reasonable attorneys' fees; and

23 (9) To retain jurisdiction of this action and grant to Plaintiff(s) any further  
24 relief which may, in the discretion of this Court, be necessary and proper.

25 DATED: June 25, 2012

Respectfully submitted,

26  
27 By:

28   
ROBERT D. CONAWAY  
Attorneys for Plaintiff, ELISE BROWN

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge Percy Anderson and the assigned discovery Magistrate Judge is Sheri Pym.

The case number on all documents filed with the Court should read as follows:

**CV12- 5547 PA (SPx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

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**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

☒ **Western Division**  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

☐ **Southern Division**  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

☐ **Eastern Division**  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA**  
CIVIL COVER SHEET

<b>I (a) PLAINTIFFS</b> (Check box if you are representing yourself <input type="checkbox"/> ) Elise Brown	<b>DEFENDANTS</b> Debra Bowen, California Secretary of State
<b>(b) Attorneys</b> (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)  Robert D. Conaway Bar No 119657 [760-256-0603] 222 East Main Street, Suite 212, Barstow CA 92311 Mailing address: PO Box 865, Barstow CA 92312-0865	<b>Attorneys (If Known)</b>

<b>II. BASIS OF JURISDICTION</b> (Place an X in one box only.)  <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)  <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only</b> (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:10%;">PTF <input checked="" type="checkbox"/> 1</td> <td style="width:10%;">DEF <input checked="" type="checkbox"/> 1</td> <td style="width:33%;">Incorporated or Principal Place of Business in this State</td> <td style="width:10%;">PTF <input type="checkbox"/> 4</td> <td style="width:10%;">DEF <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF <input checked="" type="checkbox"/> 1	DEF <input checked="" type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
Citizen of This State	PTF <input checked="" type="checkbox"/> 1	DEF <input checked="" type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4														
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6														

**IV. ORIGIN** (Place an X in one box only.)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify):	<input type="checkbox"/> 6 Multi-District Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge
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**V. REQUESTED IN COMPLAINT:** JURY DEMAND: ☐ Yes ☒ No (Check 'Yes' only if demanded in complaint.)

**CLASS ACTION** under F.R.C.P. 23: ☐ Yes ☒ No     **MONEY DEMANDED IN COMPLAINT:** \$ injunction, dec relief & atty fees

**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)  
 42 USC 1973, Section 2 of Voting Rights Act, 42 USC 1983 [voting rights of African Americans violated by California's Top 2 Primary]

**VII. NATURE OF SUIT** (Place an X in one box only.)

<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>TORTS</b> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>TORTS</b> <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>CIVIL RIGHTS</b> <input checked="" type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <b>FORFEITURE / PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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**FOR OFFICE USE ONLY:** Case Number: \_\_\_\_\_

**AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.**



**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT CALIFORNIA**  
**CIVIL COVER SHEET**

**VIII(a). IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes  
 If yes, list case number(s): \_\_\_\_\_

**VIII(b). RELATED CASES:** Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes  
 If yes, list case number(s): \_\_\_\_\_

**Civil cases are deemed related if a previously filed case and the present case:**

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or  
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or  
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**IX. VENUE:** (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.  
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
San Bernardino County	

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.  
☒ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Sacramento County	

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.  
**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
San Bernardino County	Inyo, Mono

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

**Note:** In land condemnation cases, use the location of the tract of land involved.

**X. SIGNATURE OF ATTORNEY (OR PRO PER):** \_\_\_\_\_

Date

6/22/2012

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

**Key to Statistical codes relating to Social Security Cases:**

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))



AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Central District of California

Elise Brown,

Plaintiff(s)

v.

Debra Bowen, California Secretary of State

Defendant(s)

CV 12 - 05547

Civil Action No.

PA  
SPX

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Debra Bowen  
California Secretary of State  
1500 11th Street  
Sacramento CA 95814

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Robert D. Conaway  
222 East Main Street, Suite 212, Barstow CA 92311  
Mailing address: PO Box 865, Barstow CA 92312-0865

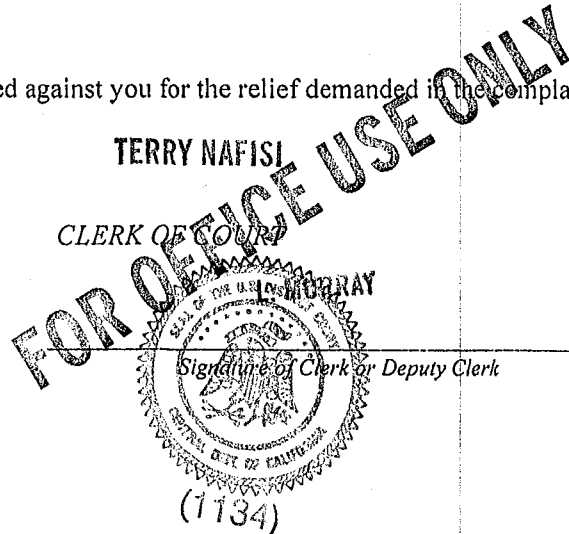
If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

TERRY NAFISI

CLERK OF COURT

JUN 26 2012

Date: \_\_\_\_\_



Signature of Clerk or Deputy Clerk

(1134)

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: