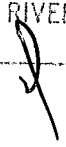


LODGED

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2012 JUN 26 AM 10:58

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

BY: 

5 Attorney for ELISE BROWN, Plaintiff

6
7 **IN THE UNITED STATES DISTRICT COURT**
8 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
9

10
11 ELISE BROWN,

12 Plaintiff,

13
14 v.

15 DEBRA BOWEN, California
16 Secretary of State

17 Defendant.
18
19
20

CV 12 - 05547 PA SPx
CASE No.

NOTICE OF MOTION & MOTION
FOR PRELIMINARY INJUNCTION

Date: July 23, 2012
Time: 10:00 am
Room: TBD

[FILED CONCURRENT WITH
PROPOSED ORDER, COMPLAINT,
MEMORANDUM OF POINTS &
AUTHORITIES IN SUPPORT OF EX
PARTE, DECLARATIONS OF ELISE
BROWN & ROBERT CONAWAY]

21 TO THE COURT, ALL PARTIES, AND THEIR COUNSEL OF RECORD:

22 PLEASE TAKE NOTICE THAT on July 23, 2012 at 10 am,
23 or as soon thereafter as this matter may be heard before the Honorable

24 _____, pursuant to the Federal Rule of Civil Procedure 65

25 and Local Rule 65-1, Plaintiff, Elise Brown will and hereby do move this Court
26 for a preliminary injunction enjoining Defendant Debra Bowen from preparing the
27 certificates of nomination as required of her under California Election Code
28



1 8147 and declaring the Top Two Vote getters under the California Top Two
2 Primary law [modifying Article II of the California Constitution and Section 6 of
3 Article II of the California Constitution] on the grounds that Proposition [14] or
4 the Top Two Primary Act:

5 (1) Violates plaintiff's rights under the First, Fourteenth and Fifteenth
6 Amendments of the Constitution of the United States,

7 (2) Violates plaintiff's rights under Section 2 of the Voting Rights Act of
8 1965 ("VRA") as amended in 1982 or more commonly known as 42 U.S.C.
9 1973,

10 (3) Violates plaintiff's first and fourteenth amendment right to freedom of
11 association, which protects the freedom to join and participate in the general
12 election process in furtherance of common political beliefs, which by its nature
13 includes the right to select and be able to vote for party nominees in the general
14 elections [as per United States Supreme Court in Democratic Party of the United
15 States of America v Wisconsin ex rel La Follette, 450 US 107 (1981) and
16 reaffirmed in California Democratic Party v Jones 530 US 567, 573-74 (2000)],

17 (4) Violates the right of qualified voters to cast their votes effectively
18 ["which ranks amongst our most precious freedoms"] per Anderson v Celebreeze,
19 460 U.S. 780, 787-88, quoting Williams v Rhodes, 393 U.S. 23, 30-31] and
20 protection against "substantial intrusion into associational freedom which
21 occurs when people are deprived of the right to vote for their candidate in federal
22 elections". LaFollette Id.,

23 (5) Violates the retained right to vote in a federal general election for a
24 democrat, a practice that has existed all of Plaintiff's adult life and since the first
25 election after California was admitted to the Union in 1850, is a substantive due
26 process right protected under the 14th Amendment & Bush v Gore (2000) &

27 (6) the California Election Code Section 8147 authorizes and directs the
28 California Secretary of State to issue certificates of nomination (note nomination

1 is singular) to candidates for Congress, so to the extent multiple nominations from
2 one party are issued for a primary, Secretary of State Bowen exceeds her statutory
3 authority under Election Code Sec 8147.

4 This motion is made after an attempt to set up a pre-motion early meet
5 pursuant to the local rules and good practice on June 22, 2012, but was frustrated
6 by the lack of any call back, fax or email from the California Secretary of State's
7 attorneys after a letter and draft of the complaint were faxed to the Secretary of
8 State contact who gave me his name and fax for that initial contact purpose.

9 Needless to say, the parties could not reach an agreement on
10 anything addressed by the within motion and given the time factors involved in
11 elections, this motion became necessary.

12 This motion is based on the accompanying Memorandum of Points and
13 Authorities, the Declaration of Elise Brown and Robert D. Conaway and plaintiff's
14 request for judicial notice and such other matters as may be introduced up to and
15 including the hearing noticed on this motion.

16 Dated: June 25, 2012

LAW OFFICE of ROBERT D. CONAWAY

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19 ROBERT D. CONAWAY
20 Attorney for Elise Brown, Plaintiff
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