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Constitution Party of California,
8 *Jeff Norman, Charles Michel Deemer,*
and John Gabree

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10 **IN THE UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 CALIFORNIA JUSTICE COMMITTEE;
THE CONSTITUTION PARTY OF
13 CALIFORNIA; JEFF NORMAN; CHARLES
MICHEL DEEMER; and JOHN GABREE,

14 Plaintiffs,

15 vs.

16 DEBRA BOWEN, California Secretary of
17 State, in her official capacity,

18 Defendant.
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Case No.

CV 12-3956 PA (ABR)

COMPLAINT FOR
INJUNCTIVE AND
DECLARATORY RELIEF

I/S
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INTRODUCTION

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1. Free and fair elections are the foundation of American democracy. Inherent in this precept is the recognition that the electoral process is our Nation's primary mechanism for defining and debating policy matters that inform our governance. By and large, our two major political parties carry out our discourse over ideas and ideals, but it has also often been the case that new political parties and established minor political parties invigorate our system by introducing new and different approaches to our great national problems.

2. Our Constitution enshrines these contributions by ensuring meaningful opportunity for new political parties to participate in the political fray. *See, e.g., Anderson v. Celebrezze*, 460 U.S. 780, 793-94 (1983). A bedrock constitutional principle is that like-minded individuals can join together freely and compete on fair and equal terms in the political arena. Since this Nation's founding, voters have sought to influence public opinion and governmental decisions by forming political parties and voting for candidates supported by their preferred political party. Historically, political figures outside the two major parties have been a fertile source of new ideas and new governmental policies; many of their challenges to the status quo have, in time, made their way into the political mainstream. *See id.* at 794.

3. The United States Supreme Court and the lower courts have recognized that restrictions on the ability of candidates preferred by cohesive groups of voters to gain access to the ballot implicate two basic constitutional rights: the rights of individuals to associate for the advancement of political beliefs and the rights of qualified voters to cast their votes effectively. *See id.* at 786-87. Courts have repeatedly held that state statutory schemes that excessively burden the ability of political parties or candidates to gain access to the ballot violate these fundamental constitutional rights. As a result, courts have consistently struck down statutory schemes that exclude candidates or parties from the ballot unless

1 they demonstrate a substantial level of support (usually through voter registration
2 affidavits or petitions signed by eligible voters) by a date well in advance of the
3 election.

4 4. Courts apply a balancing test to determine the constitutionality of a
5 State's ballot access laws by weighing the injury they cause against the State's
6 interests justifying its laws. *Anderson*, 460 U.S. at 789. If the law places severe
7 restrictions upon these rights, courts apply strict scrutiny and require the law to be
8 narrowly drawn to advance a state interest of compelling importance. *Burdick v.*
9 *Takushi*, 504 U.S. 428, 434 (1992). If the law imposes only reasonable,
10 nondiscriminatory restrictions upon the plaintiff's constitutional rights, the court
11 applies rational basis review. *Id.*

12 5. The State of California's statutory scheme regulating recognition of
13 political parties violates these well-settled constitutional principles. Under
14 California's statutory scheme, groups seeking to be recognized as political parties
15 (known as "political bodies") are prevented from placing their candidates for
16 President and Vice President on the November Presidential Election ballot unless
17 they satisfy California's requirements for formal recognition as a political party.
18 The requirements include accumulating more than 103,000 voter registration
19 affidavits reflecting voters' intent to affiliate formally with the political body or
20 submitting more than 1,030,000 petition signatures in support of recognizing the
21 political body as a party, and the deadline for qualifying as a new party is in
22 January. This January party-qualification deadline applies even though recognized
23 political parties do not need to participate in California's June primary election in
24 order to place their candidates for President and Vice President on the November
25 Presidential Election ballot.

26 6. California's very early party-qualification deadline (more than 10
27 months before the November Presidential Election), combined with the high
28 numeric threshold, constitutes a severe restriction on the First Amendment rights

1 of voters, political bodies, and individuals and entities that support political bodies.
2 California's party-qualification scheme impermissibly undermines the efforts of
3 political bodies, and individuals who support them, to participate in the political
4 process on equal terms with established political parties. Because California lacks
5 even a legitimate interest in establishing this onerous party-qualification deadline a
6 full ten months before the November Presidential Election, California's party-
7 qualification scheme violates Plaintiffs' First and Fourteenth Amendment rights,
8 which are enforceable through 42 U.S.C. § 1983.

9 7. Through this action, Plaintiffs seek declaratory and injunctive relief to
10 prevent the California Secretary of State from enforcing the party-qualification
11 scheme as Plaintiffs seek to qualify as recognized political parties and have their
12 duly nominated candidates for President and Vice President included on the
13 November 2012 California ballot. Although the Plaintiffs in this action come from
14 different places on the ideological spectrum and may fundamentally disagree on
15 important issues, they share the belief that the State of California must abide by the
16 United States Constitution and that government must be accountable and live up to
17 the American ideal that political ideas should compete on equal terms in a free and
18 open political process.

19 JURISDICTION

20 8. Plaintiffs' claims for declaratory and injunctive relief are brought
21 pursuant to the First and Fourteenth Amendments to the Constitution of the United
22 States and 42 U.S.C. § 1983.

23 9. This Court has jurisdiction over Plaintiffs' federal claims under 28
24 U.S.C. §§ 1331, 1343, and 2201. Declaratory relief is authorized under 28 U.S.C.
25 §§ 2201 and 2202.

26 VENUE

27 10. Venue is proper in the Central District of California under 28 U.S.C. §
28 1391(b) because a substantial part of the events or omissions giving rise to the

1 claim occurred or will occur in the District, and because all Defendants named
2 herein reside in, maintain offices in, or are responsible for enforcing the laws
3 relevant to this litigation in this district.

4 **PARTIES**

5 11. The California Justice Committee is a general purpose committee
6 under the laws of California. It was formed to support the efforts of the Justice
7 Party to qualify as a recognized political party in California. The Justice Party is a
8 political body under the laws of California and desires to place candidates for
9 President and Vice President on the ballot in November 2012 and in subsequent
10 Presidential elections.

11 12. The Constitution Party of California is a political body under the laws
12 of California and desires to place candidates for President and Vice President on
13 the ballot in November 2012 and in subsequent Presidential elections.

14 13. Jeff Norman is a resident of Los Angeles County, California and is a
15 registered voter in the State of California. Mr. Norman is a founding member of
16 the Justice Party in California, is the assistant treasurer of the California Justice
17 Committee, and desires to support and vote for the duly nominated Justice Party
18 candidates for President and Vice President on the November 2012 California
19 ballot and in subsequent Presidential elections.

20 14. John Gabree is a resident of Los Angeles County, California and is a
21 registered voter in the State of California. Mr. Gabree is a member of the Justice
22 Party, is the treasurer of the California Justice Committee, and desires to support
23 and vote for the duly nominated Justice Party candidates for President and Vice
24 President on the November 2012 California ballot and in subsequent Presidential
25 elections.

26 15. Charles Michel Deemer is a resident of Los Angeles County,
27 California and is a registered voter in the State of California. Mr. Deemer is a
28 member of, and serves as the Treasurer of, the Constitution Party of California and

1 desires to support and vote for the duly nominated Constitution Party candidates
2 for President and Vice President on the November 2012 California ballot and in
3 subsequent Presidential elections.

4 16. Debra Bowen is the Secretary of State of California and is charged by
5 statute with enforcing California's ballot-access scheme for minor-party and
6 independent candidates seeking to run for President and Vice President in the
7 November general election in California and with determining whether a political
8 body has qualified as an officially recognized party under the laws of California.
9 She is sued in her official capacity only.

10 **FACTUAL ALLEGATIONS**

11 **California's Statutory Scheme Regulating Political Parties and**
12 **Their Ability to Place Candidates on the Ballot**

13 17. Political parties may qualify for participation in California elections in
14 one of three ways: (1) if one of the party's candidates for statewide office received
15 at least two percent of the entire statewide vote during the preceding gubernatorial
16 election; (2) if voters totaling at least one percent of the vote from the last
17 gubernatorial election file voter registration affidavits declaring their intent to
18 affiliate with the party; or (3) if the party collects the signatures of ten percent of
19 the vote from the last gubernatorial election on a petition. *See* Cal. Elec. Code §
20 5100.

21 18. The first option is available only to political parties that were
22 recognized political parties in the preceding gubernatorial election. Thus, political
23 bodies seeking to qualify as recognized political parties must use either the voter
24 registration option or the petition option.

25 19. A party seeking to qualify by voter registration or petition must
26 qualify by 135 days before the California primary (hereinafter "135-day
27 deadline"). *See* Cal. Elec. Code § 5100. California will hold its primary election
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1 on June 5, 2012, so the 135-day deadline was January 23, 2012.¹

2 20. If a political body does not qualify as a recognized political party by
3 the 135-day deadline, it cannot run candidates in the California primary or general
4 elections for that election cycle. Additionally, candidates who otherwise qualify
5 for the primary ballot or general election ballot may not list their affiliation with a
6 political body that failed to qualify prior to the 135-day deadline.

7 21. Recognized political parties do not have to participate in the primary
8 election in order to place their nominees for President and Vice President on the
9 November ballot. Nonetheless, the 135-day deadline governs all political bodies'
10 ability to qualify for the November Presidential election. Thus, even political
11 bodies that plan to run candidates only for President and Vice President, and
12 choose to bypass California's June primary election entirely, must qualify as
13 recognized political parties in January, a full ten months before the November
14 general election.

15 22. The Justice Party and the Constitution Party of California wish to
16 qualify as recognized political parties so that their nominees for President and Vice
17 President can appear on California's November Presidential Election ballot without
18 having to participate in the June primary. Nonetheless, they must qualify by the
19 135-day deadline.

20 23. The effective deadlines for party qualification in California, however,
21 are even earlier than the 135-day deadline. For parties seeking to qualify under the
22 voter registration option, the Secretary of State counts voter affidavits only if they
23 have been filed with the appropriate county office 154 days before the California
24 primary (hereinafter "154-day deadline"). *See* Cal. Elec. Code § 2187(d)(1). This
25 year the 154-day deadline fell on January 3, 2012. Additionally, parties seeking to
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27 ¹ The 135-day deadline fell on January 22, but this was a Sunday. Under
28 California law, the 135-day deadline therefore fell on January 23.

1 qualify under the petition option had to submit their signatures by either November
2 10, 2011 or September 16, 2011, depending upon whether the Secretary of State
3 will verify every signature or certify the party based on only a random sample of
4 signatures. See Cal. Elec. Code §§ 9030, 9031; California Secretary of State, June
5 5, 2012 Presidential Primary Election Timeline, available at
6 <http://www.sos.ca.gov/elections/pdfs/2012-presidential-primary-deadline.pdf>.

7 24. Based on the number of voters in the last gubernatorial election, the
8 one percent voter registration threshold for the 2012 election cycle was
9 approximately 103,000 and the ten percent petition threshold was approximately
10 1,030,000. Thus, in order to participate in the 2012 election cycle as recognized
11 political parties, political bodies had to either accumulate approximately 103,000
12 voter registration affidavits by January 3, 2012 or gather and submit approximately
13 1,030,000 signatures no later than November 10, 2011.

14 25. Compared to the voter registration option, the petition option is far
15 more onerous because it requires parties to gather signatures from ten times as
16 many voters and submit the petition months earlier. Because neither the Justice
17 Party nor the Constitution Party of California have the substantial financial
18 resources necessary to qualify by the petition method, each political body seeks to
19 qualify under the one percent voter registration method and its 154-day deadline.

20 **Early Registration Deadlines Substantially Disadvantage Minor Political**
21 **Parties and Independent Candidates**

22 26. Early deadlines like California’s party-qualification scheme place
23 political bodies seeking to qualify for the ballot (and individuals who wish to vote
24 for candidates affiliated with them) at a substantial disadvantage in the electoral
25 process. Empirical studies and judicial decisions have identified at least three
26 reasons why early deadlines prevent political bodies and independent candidates
27 from competing on equal terms with established political parties.

28 27. First, when the primary is remote, and the general election is even

1 more remote, it is difficult for political bodies to organize: recruiting and retaining
2 volunteers is more difficult, media interest is harder to generate, contributions are
3 more difficult to secure, and voters are generally less interested in the campaign.
4 *See Anderson*, 460 U.S. at 792. Under California's scheme, in order to meet the
5 154-day voter registration deadline, political bodies necessarily have to begin
6 mobilizing voters a full calendar year or more before the general election, when
7 voter and media interest in the campaign are particularly low, and when candidates
8 and platforms for qualified political parties have not yet crystallized. Thus,
9 California's party-qualification scheme effectively prevents political bodies from
10 organizing for upcoming elections during the most fertile portion of the electoral
11 cycle.

12 28. Second, candidates and issues do not remain static over time, and
13 early qualification deadlines prevent political bodies from being as flexible as the
14 established political parties. In Presidential elections, for example, established
15 parties do not formally nominate their candidates or finalize their policy platforms
16 until their national conventions, which often occur after primary elections have
17 been held in each state. This assures that established parties can be flexible and
18 adapt to the most current circumstances heading into the election. In contrast,
19 early deadlines like California's party-qualification scheme force political bodies
20 to decide whether to seek recognition as political parties months before the primary
21 election is held, and the political bodies are locked into that decision even if
22 circumstances change, reducing their ability to adapt. *See id.* at 789.

23 29. Third, new parties often gain attention and galvanize support in
24 response to the positions taken or candidates nominated by the existing parties.
25 Among the most notable examples is the Republican Party, which formed in July
26 1854 in response to the positions taken by the then-established parties. Early
27 party-qualification deadlines, like California's party-qualification scheme, prevent
28 political bodies from taking advantage of changed circumstances or reacting to

1 decisions made by the established parties in their nominating processes. *See id.* at
2 791-92.

3 **California's Party-Qualification Scheme Severely Burdens**

4 **Plaintiffs' Fundamental Rights**

5 30. The 154-day deadline, combined with the voter registration threshold
6 of more than 103,000, has effectively excluded Plaintiffs from participating in the
7 political process on equal terms with recognized political parties in California.

8 31. On or about November 30, 2011, Rocky Anderson announced the
9 formation of the Justice Party and his intention to seek its nomination for President
10 for the 2012 Presidential Election.

11 32. On or about December 15, 2011, a group of California voters
12 submitted to the California Secretary of State's office a notice of intent to qualify
13 the Justice Party as an official political party in California.

14 33. Plaintiff Jeff Norman learned about the formation of the national
15 Justice Party, researched its platform, and decided that he wished to join the party
16 and assist in the effort to qualify the Justice Party as a recognized party in
17 California. He contacted one of the individuals who submitted the notice of intent
18 to qualify and was invited to join the steering committee of the Justice Party of
19 California. He subsequently helped form the California Justice Committee and
20 serves its assistant treasurer.

21 34. Plaintiff John Gabree learned about the Justice Party from Mr.
22 Norman and decided to join the party and support its efforts to qualify as a
23 recognized political party in California. He serves as the treasurer of the California
24 Justice Committee, which was formed to support the efforts of the Justice Party to
25 qualify as a political party in California.

26 35. Because the Justice Party has limited funds, its supporters elected to
27 pursue the voter registration option for qualifying as a political party in California.
28 Since its inception, the Justice Party has sought to educate voters, attract members,

1 and fundraise in California through its website, which describes the group's
2 platform and values and describes how supporters can formally affiliate with the
3 Justice Party by filing voter registration affidavits. Supporters have also created
4 social media sites to recruit members and increase public awareness about the
5 Justice Party and its efforts to qualify for the California ballot. Finally, supporters
6 of the Justice Party have, at times, sought to recruit additional members in
7 California by collecting voter registration affidavits at locations around the state.

8 36. The Constitution Party was founded by Howard Phillips as a national
9 political party in 1992. Since its first Presidential campaign in 1992, the
10 Constitution Party has placed its candidates for President and Vice President on the
11 November ballot in no less than 35 states, such that its Presidential candidates have
12 been theoretically capable of winning a majority of the electoral college in each
13 election.

14 37. In 1992, the American Independent Party (AIP), which has been
15 continuously recognized as a political party by California since 1968, formally
16 affiliated with the Constitution Party. As a result, the Constitution Party's
17 nominees for President and Vice President in 1992 appeared on California's
18 November Presidential ballot as AIP's candidate. Until 2008, AIP continued to
19 formally affiliate with the Constitution Party, so the Constitution Party's nominee
20 for President automatically qualified for California's November Presidential ballot
21 as AIP's candidate.

22 38. In 2008, a faction within the AIP that did not support the Constitution
23 Party's nominee for President took control of the party at the statewide convention
24 and decided to disaffiliate with the Constitution Party and instead affiliate AIP
25 with a party that supported a different candidate for President.

26 39. When the faction within the AIP maintained control of the party and
27 again did not affiliate with the Constitution Party in 2010, supporters of the
28 Constitution Party who resided in California filed, on or about August 9, 2010, a

1 notice of intent to qualify the Constitution Party of California with the California
2 Secretary of State.

3 40. Plaintiff Charles Deemer filed a California voter affidavit affiliating
4 with AIP in 1981 and has supported the national Constitution Party since AIP first
5 formally affiliated with the national Constitution Party in 1992. He filed a voter
6 affidavit changing his affiliation from AIP to the Constitution Party of California
7 on February 29, 2012, because his beliefs are in line with the platform of the
8 national Constitution Party, and he serves as the Treasurer of the Constitution Party
9 of California.

10 41. Because the Constitution Party of California has limited funds, its
11 supporters elected to pursue the voter registration option for qualifying as a
12 political party in California. Since 2010, the Constitution Party of California has
13 used the internet to foster voter education, publicize its platform, and explain how
14 supporters can formally affiliate with the Constitution Party of California by filing
15 voter registration affidavits, in addition to collecting emails of interested voters
16 through the national Constitution Party website.

17 42. Despite their efforts to qualify as recognized political parties in
18 California, neither the Justice Party nor the Constitution Party of California was
19 able to meet the one percent voter registration requirement by January 3, 2012.

20 43. Plaintiffs' experiences are consistent with the historical reality in
21 California, where new parties rarely overcome the 135-day party-qualification
22 deadline by meeting either the 154-day deadline for submitting voter-registration
23 affidavits or the even earlier deadline for submitting petitions. Although the timing
24 of California's primary election has shifted, the requirement that new parties
25 qualify by 135 days before the primary has been substantially the same since 1953.
26 Under that scheme, only seven parties have gained access to and equal
27 participation in the political process in California during the nearly 60 years the
28 scheme has been in place, confirming that California's party-qualification scheme

1 has wrought severe burdens on the First and Fourteenth Amendment rights of
2 voters and political bodies since its adoption.

3 44. In fact, the only new party to overcome the barriers created by
4 California's party-qualification scheme since 1995 is the Americans Elect Party
5 (AEP), which qualified for the current election cycle through the petition option.
6 Unlike the Justice Party and Constitution Party of California (and most political
7 bodies seeking to qualify as political parties), AEP was launched and backed by a
8 group of individuals who committed millions of dollars to the party's effort to
9 qualify for the presidential election across the country. This unusual level of
10 financial support allowed AEP to hire professional petition circulators and build an
11 organized and well-funded party-qualification effort in California well in advance
12 of the early petition deadline.

13 45. In sum, California's party-qualification scheme creates a severe
14 burden on political bodies that wish to achieve formal recognition and full and
15 equal participation in the political process and on individual voters who wish to
16 associate with other like-minded voters and vote for candidates of their choice in
17 the November Presidential election. Because California's laws impose a severe
18 burden on Plaintiffs' constitutional rights, they must be narrowly tailored to
19 support a compelling state interest.

20 **California's Interests in the Party-Qualification Scheme**
21 **Are Insufficient To Justify This Severe Burden on Fundamental Rights**

22 46. California has no compelling interest in forcing political bodies to
23 meet such a high numeric threshold requirement by January of an election year in
24 order to be certified as recognized political parties and thereby qualify to run their
25 duly nominated candidates for President and Vice President in the November
26 general election. In fact, California lacks even a legitimate interest in maintaining
27 the current party-qualification requirements of its ballot access scheme.

28 47. *First*, the January 3, 2012 cutoff for submitting voter registration

1 affidavits is not plausibly justified by the administrative needs of preparing and
2 printing the ballot for the November 2012 general election (which falls on
3 November 6, 2012). Neither the Secretary of State nor the other public entities
4 involved in staging the November 2012 general election requires more than *10*
5 *months* to tabulate whether political bodies have satisfied the numeric threshold
6 requirements to qualify as recognized political parties and then prepare and
7 distribute the ballots.

8 48. California Election Code § 2187 confirms that the Secretary of State
9 does not need 10 months to tabulate the number of registered voters and prepare
10 and distribute the ballots. Section 2187(b) requires that the Secretary of State
11 compute the total number of voters, by party affiliation, within 30 days of
12 receiving summary statements of the voters registered in each county. This
13 demonstrates that the process of counting registrants and comparing the total state-
14 wide number for each party against the numeric threshold takes, at most, 30 days.
15 Section 2187(d)(1) requires that county registrars tabulate the summary statements
16 of voters registered in each county, including how many voters in each county are
17 affiliated with each recognized political party and each political body, within 19
18 days of the 154-day deadline. Thus, the relevant statutory scheme provides, at
19 most 49 days, for processing and tabulating voter registration affidavits for each
20 political party and political body after the 154-day deadline.

21 49. Moreover, the Secretary of State's ability to include candidates for
22 President and Vice President whose identities are not known until August or
23 September on the November ballot demonstrates that the 154-day deadline is not
24 justified by California's administrative needs if a political body wishes to qualify
25 as a party in order to run candidates for President and Vice President. The
26 deadline for independent candidates for President and Vice President to qualify for
27 the November 2012 ballot in California is 88 days before the November general
28 election (which this year falls on August 10). *See* Cal. Elec. Code §§ 8303, 8304

1 & 8403. And the Republican Party and Democratic Party will hold their national
2 conventions, at which they will select their candidates for President and Vice
3 President, in late August and early September, respectively. The Secretary of State
4 is able to include independent candidates for President and the nominees of the
5 Republican and Democratic Parties on the November 2012 ballot under these
6 timeframes.

7 50. *Second*, the additional cost to the State of California of recognizing
8 parties and listing their duly nominated candidates for President and Vice President
9 on the November ballot is negligible. Adding one name to the slate of candidates
10 for President or Vice President does not appreciably add to the cost of printing the
11 November ballots.

12 51. *Third*, the numeric thresholds established by the State of California –
13 either one percent of the vote from the last gubernatorial election for the voter
14 registration approach or ten percent of the vote from the last gubernatorial election
15 for the petition option – are unnecessary to ensure that voters are not confused by a
16 proliferation of parties. Empirical research demonstrates that a requirement of just
17 5,000 signatures or registrations ensures that the field of candidates on a ballot will
18 be limited enough so that voters are not at risk of being confused.

19 52. *Fourth*, as the United States Supreme Court has recognized, states
20 have a diminished interest in regulating ballot access for Presidential elections,
21 which implicate a uniquely national interest and are largely determined by voters
22 beyond any one state's boundaries. *See, e.g., Anderson, 460 U.S. at 795.*
23 Accordingly, California's interest in curtailing access to the ballot by minor parties
24 or new parties in Presidential elections is even further diminished.

25 53. In short, California has no compelling interest in preventing citizens
26 from forming recognized political parties that are able to participate in and field
27 candidates for the November Presidential election unless they are able to reach the
28 high voter registration or petition thresholds at least 10 months before the

1 Presidential election. In fact, it lacks even a legitimate interest in maintaining such
2 onerous barriers to ballot access.

3 **FIRST CAUSE OF ACTION**

4 **Violation of 42 U.S.C. § 1983**

5 **(Denial of Associational and Voting Rights in Violation of**
6 **the First and Fourteenth Amendments)**

7 54. Plaintiffs incorporate by reference the foregoing paragraphs of this
8 Complaint as though fully set forth herein.

9 55. California's party-qualification scheme for political bodies wishing to
10 qualify as recognized political parties and have their duly nominated candidates for
11 President and Vice President listed on the November Presidential ballot violates
12 rights guaranteed to Plaintiffs by the First and Fourteenth Amendments to the
13 United States Constitution.

14 56. In enforcing the party-qualification scheme, Defendant Bowen was
15 and is acting under color of state law, thereby violating 42 U.S.C. § 1983.

16 **CAUSE OF ACTION TWO**

17 **Violation of 42 U.S.C. § 1983**

18 **(Discrimination in Violation of the Equal Protection Clause of**
19 **the Fourteenth Amendment)**

20 57. Plaintiffs incorporate by reference the foregoing paragraphs of this
21 Complaint as though fully set forth herein.

22 58. California's party-qualification scheme treats previously recognized
23 political parties more favorably than political bodies wishing to qualify as
24 recognized political parties and have their duly nominated candidates for President
25 and Vice President listed on the November Presidential ballot, in violation of the
26 rights guaranteed to Plaintiffs by the Equal Protection Clause of the Fourteenth
27 Amendment to the United States Constitution.

28 59. In enforcing the party-qualification scheme, Defendant Bowen was

1 and is acting under color of state law, thereby violating 42 U.S.C. § 1983.

2 **REQUEST FOR RELIEF**

3 Plaintiffs respectfully request that this Court grant the following relief:

4 A. Issue a preliminary and permanent injunction prohibiting Defendant
5 Bowen from enforcing California’s party-qualification scheme for political bodies
6 wishing to qualify as recognized political parties and have their duly nominated
7 candidates for President and Vice President listed on the November Presidential
8 ballot;

9 B. Declare that California’s party-qualification scheme for political
10 bodies wishing to qualify as recognized political parties and have their duly
11 nominated candidates for President and Vice President listed on California’s
12 November Presidential ballot violates the rights of Plaintiffs under the Constitution
13 and laws of the United States;

14 C. Award Plaintiffs their costs, expenses and reasonable attorney’s fees
15 pursuant to 42 U.S.C. § 1988 and any other appropriate statutory basis; and

16 D. Grant such other relief as the Court may deem just and proper.

17
18 Respectfully Submitted,

19
20 Dated: May 4, 2012

By: David B. Sapp
David B. Sapp
ACLU Foundation of Southern
California

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

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) CALIFORNIA JUSTICE COMMITTEE; THE CONSTITUTION PARTY OF CALIFORNIA; JEFF NORMAN; CHARLES MICHEL DEEMER; and JOHN GABREE	DEFENDANTS DEBRA BOWEN, California Secretary of State, in her official capacity
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Mark D. Rosenbaum, SBN 59940, David B. Sapp, SBN 264464 ACLU Foundation of Southern California 1313 W. 8th St., Los Angeles, CA 90017 Tel: (213) 977-5220	Attorneys (If Known)

II. BASIS OF JURISDICTION (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)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%; border-bottom: 1px solid black;">Citizen of This State</td> <td style="width:10%; border-bottom: 1px solid black;">PTF</td> <td style="width:10%; border-bottom: 1px solid black;">DEF</td> <td style="width:40%; border-bottom: 1px solid black;">Incorporated or Principal Place of Business in this State</td> <td style="width:10%; border-bottom: 1px solid black;">PTF</td> <td style="width:10%; border-bottom: 1px solid black;">DEF</td> </tr> <tr> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td></td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Citizen of Another State</td> <td style="border-bottom: 1px solid black;">PTF</td> <td style="border-bottom: 1px solid black;">DEF</td> <td style="border-bottom: 1px solid black;">Incorporated and Principal Place of Business in Another State</td> <td style="border-bottom: 1px solid black;">PTF</td> <td style="border-bottom: 1px solid black;">DEF</td> </tr> <tr> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td></td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Citizen or Subject of a Foreign Country</td> <td style="border-bottom: 1px solid black;">PTF</td> <td style="border-bottom: 1px solid black;">DEF</td> <td style="border-bottom: 1px solid black;">Foreign Nation</td> <td style="border-bottom: 1px solid black;">PTF</td> <td style="border-bottom: 1px solid black;">DEF</td> </tr> <tr> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td></td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF	DEF	Incorporated or Principal Place of Business in this State	PTF	DEF	<input type="checkbox"/> 1	<input type="checkbox"/> 1	<input type="checkbox"/> 1		<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	PTF	DEF	Incorporated and Principal Place of Business in Another State	PTF	DEF	<input type="checkbox"/> 2	<input type="checkbox"/> 2	<input type="checkbox"/> 2		<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	PTF	DEF	Foreign Nation	PTF	DEF	<input type="checkbox"/> 3	<input type="checkbox"/> 3	<input type="checkbox"/> 3		<input type="checkbox"/> 6	<input type="checkbox"/> 6
Citizen of This State	PTF	DEF	Incorporated or Principal Place of Business in this State	PTF	DEF																																
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Citizen or Subject of a Foreign Country	PTF	DEF	Foreign Nation	PTF	DEF																																
<input type="checkbox"/> 3	<input type="checkbox"/> 3	<input type="checkbox"/> 3		<input type="checkbox"/> 6	<input type="checkbox"/> 6																																

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

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify): _____
 6 Multi-District Litigation
 7 Appeal to District Judge from Magistrate Judge

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: \$** _____

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 U.S.C. § 1983: Denial of Associational and Voting Rights and Discrimination in Violation of the First and Fourteenth Amend of the U.S. Constitution

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

OTHER STATUTES <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	CONTRACT <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 REAL PROPERTY <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	TORTS PERSONAL INJURY <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 IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <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 BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <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	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence 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 FORFEITURE / PENALTY <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	LABOR <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 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <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)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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CV12-3956

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 OF 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
Los Angeles	

(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

(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
Los Angeles	

* 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): *Edward B. Boyd* Date 5/4/12

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))

**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 Alicia G. Rosenberg.

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

CV12- 3956 PA (AGRx)

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

=====
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.

Name & Address:

MARK D. ROSENBAUM, SBN 50940
DAVID B. SAPP, SBN 264464
ACLU Foundation of Southern California
1313 W. 8th Street, Los Angeles CA 90017
Tel: (213) 977-5220, Fax: (213) 977-5297

FOR OFFICE USE ONLY

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

CALIFORNIA JUSTICE COMMITTEE; THE CONSTITUTION
PARTY OF CALIFORNIA; JEFF NORMAN; CHARLES
MICHEL DEEMER; and JOHN GABREE

PLAINTIFF(S)

v.

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

DEFENDANT(S).

CASE NUMBER

CV12-3956 PA (AGRx)

SUMMONS

TO: DEFENDANT(S): DEBRA BOWEN, California Secretary of State

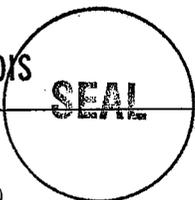
A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint _____ amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Mark D. Rosenbaum, David B. Sapp, whose address is ACLU Foundation of Southern California, 1313 W. 8th St., Los Angeles, CA 90017. If you fail to do so, 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.

Clerk, U.S. District Court

Dated: MAY - 7 2012

By: SHEA BOURGEOIS
Deputy Clerk



(Seal of the Court)

FOR OFFICE USE ONLY

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].