

1 MARK D. ROSENBAUM, SBN 59940  
mrosenbaum@aclu-sc.org  
2 DAVID B. SAPP, SBN 264464  
dsapp@aclu-sc.org  
3 ACLU FOUNDATION OF  
SOUTHERN CALIFORNIA  
4 1313 West 8<sup>th</sup> Street  
Los Angeles, CA 90017  
5 Telephone: (213) 977-5220  
Facsimile: (213) 977-5297

6 Attorneys for Plaintiffs  
7 *California Justice Committee, the*  
*Constitution Party of California,*  
8 *Jeff Norman, Charles Michel Deemer,*  
*and John Gabree*  
9

2012 MAY -7 PM 1:35  
CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES  
BY [Signature]

FILED

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

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

15 Plaintiffs,

16 vs.

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

19 Defendant.

Case No. **CV12-3956 PA (ABR)**

DECLARATION OF RICHARD  
WINGER IN SUPPORT OF  
PLAINTIFFS MOTION FOR  
PRELIMINARY INJUNCTION  
AND *EX PARTE* APPLICATION  
FOR ORDER SHORTENING  
TIME

Date: May 21, 2012  
Time: 10 a.m.  
Room: TBD

20  
21  
22  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**DECLARATION OF RICHARD WINGER**

I, RICHARD WINGER, make this declaration based on my own personal and professional knowledge and, if called to testify, I would do so competently as follows:

**Personal Background and Professional Experience**

1. I am a resident of the State of California. I graduated from the University of California at Berkeley in 1966 with a BA degree in political science. Since 1985, I have published a monthly newsletter, *Ballot Access News*, which covers legal, legislative, and political developments of interest to third parties and independent candidates. For 49 years I have researched the ballot access laws of all states, for the period from 1888, when the first government-printed ballots appeared, to the present. I have testified in courts concerning ballot access for minor parties and independent candidates in more than half the states. I have been accepted as an expert in U.S. District Courts in nine states. A true and correct copy of my resume is attached as **Exhibit A.**

**Overview of Conclusions**

2. As numerous courts have recognized, the timing of party-qualification deadlines can substantially impact the ability of minor parties to attain formal recognition, which most states require in order for the party to place its candidates on the ballot with the party label next to the candidate's name.

3. California law excludes political parties from placing their candidates for President and Vice President on California's November Presidential ballot with the party label unless the new party satisfied the state's party-qualification requirements as of January 2012, more than 10 months before the November Presidential election.

4. California's party-qualification deadline for new parties seeking to place their nominees for President and Vice President on the November Presidential ballot is earlier than many candidate- or party-qualification deadlines that courts have struck down as placing an unconstitutional burden on voters' First and Fourteenth Amendment rights.



1 certifies whether political bodies have satisfied this requirement 135 days before the  
2 primary, the Secretary of State has to verify that the signatures submitted in the  
3 petition are valid, either by verifying a random sample of the signatures or by  
4 verifying each signature. Accordingly, for each election cycle, the Secretary of State  
5 sets deadlines by which political bodies must submit the petition packets. For the  
6 current election cycle, the latest date by which a political body seeking to qualify as a  
7 recognized political party under this method could submit its petition was November  
8 10, 2011, which is approximately 208 days before the June primary and approximately  
9 362 days before the November Presidential election.

10 9. The California Secretary of State ruled earlier this year that political  
11 parties that intend to run candidates only for President and Vice President do not have  
12 to participate in the June primary. Accordingly, even though political parties do not  
13 have to participate in the June primary, political bodies must satisfy California's  
14 party-qualification standards by the early deadlines identified above, even if they  
15 intend to run candidates only for President and Vice President.

16 10. Under California law, political bodies must qualify as recognized  
17 political parties months before the major parties even select their candidates for  
18 President and Vice President. The Democratic Party and the Republican Party each  
19 select their candidates at their national conventions, which this year will take place on  
20 September 6 (61 days before the November Presidential election) and August 30 (68  
21 days before the November Presidential election), respectively.

22 11. Under California law, political bodies must also qualify as recognized  
23 political parties months before the qualification deadline for independent candidates  
24 for President. The qualification deadline for independent candidates for President is  
25 88 days before the November Presidential election, so this year's deadline falls on  
26 August 10, 2012.

27 //

28 //

1     **Early Qualification Deadlines Can Severely Disadvantage Minor Parties in the**  
2                                     **Electoral Process**

3             12.    Social science research and practical experience have demonstrated that  
4 early qualification deadlines, when coupled with high voter registration or signature  
5 requirements, disadvantage minor parties and independent candidates and can  
6 therefore act as a severe barrier to their ability to gain access to the ballot. Numerous  
7 courts around the country have recognized this reality in decisions striking down early  
8 qualification deadlines established by states.

9             13.    Early qualifying deadlines for new parties harm those parties, and the  
10 voters, in two distinct ways. One harm is that events that occur during the spring of  
11 election years are sometimes completely unexpected, and of great importance. These  
12 unexpected events sometimes cause many people to strongly desire to create a new  
13 party. For example, in May 1854, Congress passed the Kansas-Nebraska Act,  
14 opening up Kansas and Nebraska territories to switch from free territories to slave  
15 territories, if the people living in those territories desired slavery. This caused citizens  
16 who were opposed to any extension of slavery to form the Republican Party, on July  
17 6, 1854. A California-style deadline for creating new parties would have made such a  
18 new party too late to participate in the autumn 1854 congressional election. At the  
19 time there were no ballot access barriers in the United States, and the Republican  
20 Party won a plurality in the U.S. House in the 1854 elections. Another important  
21 newly-created party that could not have been created if California's deadline had been  
22 in existence at the time of that party's creation was the Progressive Party of 1912,  
23 which Theodore Roosevelt formed in July 1912 after he was defeated for the  
24 Republican nomination in June 1912. The Progressive Party elected a U.S. Senator,  
25 17 members of the U.S. House, and placed second in the presidential election.

26             14.    The other harm done by early qualifying deadlines for new parties is that  
27 even when parties were created in the odd year before the election, so as to  
28 theoretically be able to comply with a January deadline, they seldom have enough

1 public support that early in the election season to comply with the requirement. This  
2 is certainly true of the Justice Party, which was only formed in December 2011, and is  
3 only slowly becoming known to the country. During the odd year before a  
4 presidential election year, there is interest in politics, but the interest is not nearly as  
5 strong as it becomes in the spring and summer and fall of the election year itself.

6 **The Historical Record Confirms that California's Party-Qualification Scheme**  
7 **Has Been a Substantial Barrier for New Political Parties**

8 15. The historical record regarding minor parties' ability to satisfy  
9 California's onerous party-qualification standards confirms the severe barrier that  
10 California's statutory scheme poses for political bodies seeking to qualify as  
11 recognized political parties. Very few parties have succeeded in overcoming  
12 California's requirements for qualifying as new parties and gaining access to place  
13 their duly nominated candidates on the ballot with the party label next to the  
14 candidates' names.

15 16. In 1951, the California legislature established a deadline for political  
16 bodies seeking to be recognized as political parties that fell 95 days before the state's  
17 primary election. In 1953, California moved its deadline to 135 days before the state's  
18 primary election and has kept it there ever since. Although the timing of California's  
19 primary has shifted over the years, the party-qualification deadline has remained 135  
20 days before the primary since 1953.

21 17. In 1968, two political parties, the Peace and Freedom Party and the  
22 American Independent Party, qualified for the ballot. The Peace and Freedom Party  
23 was disqualified as a recognized political party in 1998 and re-qualified in 2003.

24 18. In 1980, after registering voters for seven years, the Libertarian Party  
25 surpassed the voter registration threshold and qualified as a recognized political party.

26 19. In 1992, the Green Party surpassed the voter registration threshold and  
27 qualified as a recognized political party.

28 20. In 1995, two parties, the Natural Law Party and the Reform Party,

1 qualified as recognized political parties. The Reform Party, which was founded by  
2 former independent Presidential candidate Ross Perot, qualified through the voter  
3 registration method in only 18 days. The Reform Party accomplished this remarkable  
4 feat through a combination of its ability to spend substantial resources on the voter  
5 registration effort and the timing of its efforts, which coincided with a high profile  
6 showdown between President Bill Clinton and the Republican House majority over  
7 the federal government's budget that ultimately led to the shutdown of the federal  
8 government. The Reform Party was disqualified as a recognized political party in  
9 2002 and the Natural Law Party was disqualified in 2006.

10 21. In 2011, the Americans Elect Party qualified for the ballot through the  
11 petition method. The Americans Elect Party was able to amass the more than  
12 1,030,080 signatures necessary to qualify through this method due to its ability to  
13 spend millions of dollars on professional petition gatherers in California. In total, the  
14 Americans Elect Party spent millions of dollars on its efforts to qualify for the ballot  
15 in California and other states, and that amount of financial support is unusual for new  
16 political parties.

17 22. In summary, only one new political party, the well-funded Americans  
18 Elect Party, has satisfied California's party-qualification scheme since 1995, and only  
19 seven new political parties have satisfied California's party-qualification scheme in  
20 the nearly 60 years since the legislature fixed the party-qualification deadline 135 days  
21 before the primary.

22 23. The Justice Party and the Constitution Party are *bona fide* political parties  
23 nationally. The Constitution Party has won partisan elections in Iowa, Montana, and  
24 Nevada, including the election of its candidate for the Montana state legislature in  
25 2006. The national Justice Party was formed in late 2011, but already has qualified as  
26 a recognized political party in three states, Mississippi, Utah, and New Mexico.<sup>2</sup>

27  
28 <sup>2</sup> The ballot-qualified Independent Party of New Mexico has decided to change its name to the  
Justice Party. New Mexico law lets qualified parties change their names. Although the change has

1 Nonetheless, neither the Justice Party (the California political body) nor the  
2 Constitution Party of California has been able to overcome the early deadline in  
3 California's party-qualification scheme.

4 **California's Party-Qualification Scheme Favors Established Parties**

5 24. In contrast to the substantial hurdles that California's party-qualification  
6 scheme imposes on new political parties seeking formal recognition from California  
7 as political parties, it is significantly easier for recognized political parties to retain  
8 their status than for new political parties to qualify in the first place.

9 25. To retain their status, qualified parties need only have any one of their  
10 statewide candidates receive at least 2 percent of the vote in any statewide race during  
11 gubernatorial election years and maintain party registration of at least one-fifteenth of  
12 1 percent (0.067 percent) of the total state registration. This scheme was first enacted  
13 in 1959.

14 26. I have conducted analyses of how successful political parties recognized  
15 by California are at maintaining their party qualification under this system. Based on  
16 my most recent analysis, recognized political parties have retained their party  
17 qualification for the next election cycle 90 percent of the time since the scheme was  
18 enacted in 1959.

19 **Courts Have Repeatedly Struck Down Qualification Deadlines that Fall Closer to**  
20 **Elections than California's Party-Qualification Deadline for Parties Seeking to**  
21 **Place Presidential and Vice Presidential Candidates on the Ballot**

22 27. For the April 1, 2012 issue of *Ballot Access News*, I prepared a table  
23 summarizing cases in which a court enjoined early candidate- or party-qualification  
24 deadlines. The table appeared on page 4 of the April 1, 2012 issue of *Ballot Access*  
25 *News*. A true and correct copy of the April 1, 2012 issue of *Ballot Access News* is  
26 attached as **Exhibit B**.

27  
28 not been formalized, I understand that the party leaders are unanimous that they will do this.  
Because it is on the ballot now, I think it is fair to include New Mexico in this count.

1 28. As the table reflects, California's January 3, 2012 deadline for party  
2 qualification through the voter registration option is earlier than almost every early  
3 qualification deadline that has been struck down by courts. Only two deadlines were  
4 earlier in the calendar year: the Arkansas deadline struck down in 1996 (January 2)  
5 and the Ohio deadline struck down in 2006 (November 3 of the year preceding the  
6 election).

7 **Administrative Considerations Do Not Support Such an Early Deadline**

8 29. Although states often point to administrative considerations to support  
9 early qualification deadlines, I am not aware of any such consideration that supports  
10 California's early party-qualification deadline with respect to the November  
11 Presidential ballot.

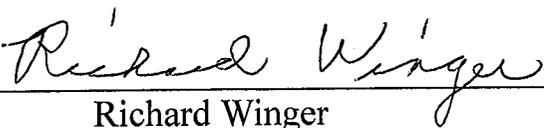
12 30. The cost of adding additional candidates to the November Presidential  
13 ballot is negligible. Unlike races for other offices, the candidates for President and  
14 Vice President are uniform across the state, so the same candidates would be listed on  
15 every ballot across the state. The printing costs to the state of adding one or even  
16 several names to the list of candidates for President and Vice President on the  
17 November ballot is also minimal.

18 31. The cost of keeping a minor party presidential candidate off the ballot  
19 can actually exceed the cost of putting its candidate on the ballot. This is because  
20 California law lets such candidates file as declared write-in candidates, and then  
21 election officials must tally write-ins for that candidate. It costs more money to count  
22 a write-in vote than to count a vote for a candidate listed on the ballot.

23 32. Finally, other aspects of California's ballot scheme confirm that the  
24 California Secretary of State does not need ten months to tabulate whether a political  
25 body has satisfied the voter registration threshold in order to place its candidates for  
26 President and Vice President on the November ballot with the party label. First, as  
27 noted above, the cutoff for voter registration affidavits to count toward a political  
28 body's total for party-qualification purposes is 154 days before the primary. The

1 California Election Code requires each county registrar to submit a report to the  
2 Secretary of State listing the number of registered voters in the county and the number  
3 of voters affiliated with each recognized political party and political body within 19  
4 days of the cutoff (135 days before the primary). Upon receiving those reports, all  
5 that the Secretary of State needs to do to determine whether political bodies have  
6 satisfied the voter registration threshold is add the voter registration totals from each  
7 county. Second, the only way that independent candidates for President can qualify  
8 for the November ballot in California is through signatures on a petition. For the  
9 November 2012 election, the number of signatures required is 172,859, and the  
10 deadline for submitting the petition is August 10, 2012. Tabulating signatures is more  
11 onerous for election officials than calculating the number of voters affiliated with  
12 recognized political parties and political bodies, because signatures must be verified,  
13 whereas the Secretary of State relies on the voter registration reports prepared by the  
14 county registrars.

15 I declare under penalty of perjury that the foregoing is true to the best of my  
16 knowledge. Executed on April 20, 2012 in San Francisco, California.

17  
18  
19   
20 Richard Winger

21  
22  
23  
24  
25  
26  
27  
28

Richard Winger Curriculae Vitae  
3201 Baker Street  
San Francisco, California 94123  
Updated Jan. 11, 2012

#### EDUCATION

BA, Political Science, University of California, Berkeley, 1966  
Graduate study, Political Science, UCLA, 1966-67

#### EMPLOYMENT

*Ballot Access News*, Editor 1985-Present

Editor of newsletter covering legal, legislative and political developments of interest to minor parties and independent candidates. Researcher of ballot access laws of all 50 states from years 1888-present; well versed in how ballot access laws of each state work historically and how they compare to each other. Responsible for reading all statutes, regulations, legal opinions, and state attorney general opinions on rights of political parties and the publications of minor parties.

On the Editorial Board of *Election Law Journal*, published by Mary Ann Liebert, Inc., Larchmont, N.Y., since 2001.

#### PUBLICATIONS

Wrote a chapter or two in each of these books:

*America Votes! A Guide to Modern Election Law and Voting Rights*, 2<sup>nd</sup> edition, 2012, published by the American Bar Association's Section of State and Local Government Law, editor Benjamin E. Griffith.

*Others, Vol. 2, Third Parties During The Populist Period*, by Darcy G. Richardson (2007: iUniverse, Inc., New York). Wrote the book's Appendix, "Early Ballot Access Laws for New and Minor Parties."

*Democracy's Moment*

edited by Ronald Hayduk and Kevin Mattson (2002: Rowman & Littlefield, Lanham, Md.)

*The Encyclopedia of Third Parties in America*

edited by Immanuel Ness and James Ciment (2000: M.E. Sharpe, Inc., Armonk, N.Y.)

*Multiparty Politics in America*

edited by Paul S. Herrnson (1997: Rowman & Littlefield, Lanham, Md.)

*The New Populist Reader*

edited by Karl Trautman (1997: Praeger, Westport, Ct.)

Additional articles published in these periodicals:

*University of Arkansas Little Rock Law Review*

*Wall Street Journal*

*American Review of Politics*

*The Long Term View*  
*University of Mass. Law Review*  
*California Journal*  
*Election Law Journal* (two articles)  
*Cleveland State Law Review*  
*Chronicles Magazine*  
*Price Costco Connection*  
*Fordham Urban Law Journal*

Also, I have written "Election Law Decisions" in each issue of the newsletter of the American Political Science Association's Section on Representation and Electoral Systems, which appears twice a year, starting with the 2005 issues.

NATIONAL INTERVIEWS on Minor Parties, Independents, Ballots and Ballot Access

*NBC* *National Public Radio*  
*ABC* *Pacifica Radio*  
*CNN* *MSNBC*

CASES: TESTIMONY or AFFIDAVITS (political party or candidate prevailing, or case pending)

**Alaska:** Libertarian Party v Coghill, state superior court, 3rd dist., 3AN-92-08181, 1992  
Court issued injunction enjoining enforcement of petition deadline for minor parties  
**Arizona** (3 cases): Campbell v Hull, 73 F Supp 2d 1081 (1999); Az. Libt. Party v Hull, superior ct., Maricopa Co. 96-13996, 1996. Nader v Brewer, 531 F 3d 1028 (9<sup>th</sup> cir., 2008)  
**Arkansas** (3 cases): Citizens to Establish a Reform Party v Priest, 970 F Supp 690 (E.D. Ark. 1996); Green Party of Ark. v Priest, 159 F.Supp.2d (E.D. Ark. 2001); Green Party of Ark. v Daniels, U.S. District Court, 448 F.Supp 2d 1056 (E.D.Ark. 2006).  
**California:** California Democratic Party v Jones, 530 US 567 (2000).  
**Colorado:** Ptak v Meyer, 94-N-2250, U.S. Dist. Ct., 1994. Court ordered Secretary of State to place Libertarian legislative candidate on ballot.  
**Connecticut:** Green Party of Connecticut v Garfield, U.S. Dist. Ct., 2008, 2:06cv-1030. Decided August 27, 2009. Court held public funding law unconstitutional because it discriminates against minor party and independent candidates.  
**Florida** (2 cases): Libt. Party of Fla. v Mortham, 4:96cv258-RH, U.S. Dist. Ct., N.D., 1996. Court ordered Secretary of State to place Libertarian vice-presidential candidate on ballot. Reform Party v Black, 885 So.2d 303 (Fla. 2004).  
**Georgia:** Bergland v Harris, 767 F 2d 1551 (11th cir., 1985). U.S. Court of Appeals remanded case back to U.S. District Court. Before U.S. District Court acted, legislature substantially eased law, so case became moot.  
**Hawaii:** Libt. Party of Hi. v Waihee, cv 86-439, U.S. Dist. Ct., 1986. Court ordered Lieutenant Governor to extend petition deadline for new parties.  
**Illinois:** (2 cases): Nader v Ill. State Bd. of Elections, 00-cv-4401, U.S. Dist. Ct., N.D., 2000. Court ordered State Board of Elections to place candidate on ballot. Lee v Ill. State Bd. of Elections, 463 F.3d 763 (7<sup>th</sup> cir. 2006).  
**Iowa:** Oviatt v Baxter, 4:92-10513, U.S. Dist. Ct., 1992. Court ordered Secretary of State to put Grassroots Party candidate for Congress on ballot.  
**Kansas:** Merritt v Graves, 87-4264-R, U.S. Dist. Ct., 1988. State did not defend three election laws and signed consent decree on independent petition deadline, requirement that independent petitions not be circulated outside of circulator's home precinct,

and requirement that voters could only register in qualified parties. This case should not be confused with another by the same name decided in December, 1988.

**Kentucky:** Libt. Pty. of Ky. v Ehrler, 776 F Supp 1200 (E.D. 1991)

**Maryland** (2 cases): Dixon v Md. State Adm. Bd. of Elec. Laws, 878 F 2d 776 (1989, 4th cir.); Green Party v Bd. of Elections, 832 A 2d 214 (Md. 2003).

**Montana:** Kelly v Johnson, U.S. Dist. Ct. 08-25 (pending in 9<sup>th</sup> circuit).

**Nevada** (2 cases): Libt Pty. of Nev. v Swackhamer, 638 F Supp 565 (1986); Fulani v Lau, cv-N-92-535, U.S. Dist. Ct., 1992. Court ordered Secretary of State to put various minor parties on ballot.

**New Jersey** (2 cases): Council of Alternative Political Parties v Hooks, 999 F Supp 607 (1998); Council of Alternative Political Parties v State Div. of Elections, 781 A 2d 1041 (N.J.Super. A.D. 2001).

**New York** (3 cases): Molinari v Powers, 82 F Supp 57 (E.D.N.Y. 2000); Schulz w Williams, 44 F 3d 48 (2nd cir., 1994); Green Party of N.Y. v N.Y. State Bd. of Elections, 389 F.3d 411 (2<sup>nd</sup> cir., 2004).

**North Carolina:** Obie v N.C. Bd. of Elections, 762 F Supp 119 (E.D. 1991); DeLaney v Bartlett, 370 F.Supp.2d 373 (M.D. 2004).

**Ohio:** Libertarian Party of Ohio v Blackwell, 462 F.3d 579 (6<sup>th</sup> cir. 2006).

**Oklahoma:** Atherton v Ward, 22 F Supp 2d 1265 (W.D. Ok. 1998).

**Pennsylvania:** Patriot Party of Pa. v Mitchell, 826 F Supp 926 (E.D. 1993).

**South Dakota:** Nader v Hazeltine, 110 F Supp 2d 1201 (2000).

**Tennessee:** Libt Party v Thompson, U.S. Dist. Ct., 793 F Supp 1064 (M.D. 2010).

**Texas:** Pilcher v Rains, 853 F 2d 334 (5th cir., 1988).

**Virginia:** Libt. Pty of Va. v Quinn, 3:01-cv-468, U.S. Dist. Ct., E.D. (2001). Court ordered State Board of Elections to print "Libertarian" party label on ballot next to name of Libertarian candidates.

**West Virginia** (3 cases): State ex rel Browne v Hechler, 476 SE 2d 559 (Supreme Court 1996); Nader v Hechler, 112 F.Supp.2d 575 (S.D.W.V., 2000); McClure v Manchin, 301 F Supp 2d 564 (2003).

CASES: TESTIMONY or AFFIDAVITS (political party or candidate not prevailing)

**Alabama:** Swanson v Bennett, 490 F.3d 894 (11<sup>th</sup> cit. 2007).

**Arizona:** (2 cases) Indp. Amer. Party v Hull, civ 96-1240, U.S. Dist. Ct., 1996; Browne v Bayless, 46 P 3d 416 (2002).

**Arkansas** (2 cases): Langguth v McKuen, LR-C-92-466, U.S. Dist. Ct., E.D., 1992; Christian Populist Party v Sec. of State, 650 F Supp 1205 (E.D. 1987).

**California:** Socialist Workers Party v Eu, 591 F 2d 1252 (9th cir., 1978).

**Florida** (2 cases): Fulani v Smith, 92-4629, Leon Co. Circuit Court, 1992; Libertarian Party of Fla. v State of Fla., 710 F 2d 790 (11th cir., 1983).

**Georgia** (2 cases): Libertarian Party of Ga. v Cleland, 1:94-cv-1503-CC, U.S. Dist. Ct., N.D. (1994); Esco v Secretary of State, E-53493, Fulton Co. Superior Court, 1998.

**Idaho:** Nader v Cenarrusa, cv 00-503, U.S. Dist. Ct., 2000.

**Illinois:** Libt Party v Rednour, 108 F 3d 768 (7th cir., 1997).

**Kansas:** Hagelin for President Committee v Graves, 804 F Supp 1377 (1992).

**Maine** (2 cases): Maine Green Party v Diamond, 95-318, U.S. Dist. Ct., 1995; Maine Green Party v Secretary of State, 96-cv-261, U.S. Dist. Ct., 1996.

**Maryland** (2 cases): Ahmad v Raynor, R-88-869, U.S. Dist. Ct., 1988; Creager v State Adm. Bd. of Election Laws, AW-96-2612, U.S. Dist. Ct., 1996.  
**Missouri**: Manifold v Blunt, 863 F 2d 1368 (8th cir. 1988).  
**New Hampshire**: Werme v Gov. of N.H., 84 F 3d 479 (1st cir., 1996).  
**North Carolina**: Nader v Bartlett, 00-2040, 4th cir., 2000.  
**Ohio**: Schrader v Blackwell, 241 F 2d 783 (6th cir., 2001).  
**Oklahoma** (3 cases): Rainbow Coalition v Okla. State Elec. Bd., 844 F 2d 740 (1988); Nader v Ward, 00-1340, U.S. Dist. Ct., 1996; Clingman v Beaver, \_\_US\_\_ (May 2005).  
**Oregon**: Libt Party v Roberts, 737 P 2d 137 (Ore. Ct. of Appeals, 1987).  
**Texas** (2 cases): Texas Indp. Party v Kirk, 84 F 3d 178 (5th cir., 1996); Nat. Comm. of U.S. Taxpayers Party v Garza, 924 F Supp 71 (W.D. 1996).  
**Virginia**: Wood v Meadows, 207 F 3d 708 (4th cir., 2000).  
**West Virginia**: Fishbeck v Hechler, 85 F 3d 162 (4th cir., 1996).  
**Wyoming**: Spiegel v State of Wyoming, 96-cv-1028, U.S. Dist. Ct., 1996.

#### QUALIFIED EXPERT WITNESS

**Fishbeck v Hechler**, 85 F 3d 162 (4th cir. 1996, West Virginia case)  
**Council of Alternative Political Parties v Hooks**, 999 F Supp 607 (1998, N.J.)  
**Citizens to Establish Reform Party v Priest**, 970 F Supp 690 (E.D. Ark, 1996)  
**Atherton v Ward**, 22 F Supp 2d 1265 (W.D.Ok. 1998)  
**Calif. Democratic Party v Jones**, 530 US 567 (2000)  
**Swanson v Bennett**, not reported, U.S. Dist. Ct., m.d.Ala. (02-T-644-N)  
**Beaver v Clingman**, 363 F 3d 1048 (10<sup>th</sup> cir., 2004, Okla. case)  
**Green Pty v N.Y. Bd. Elec.**, 267 F Supp 2d 342 (EDNY 2003), 389 F.3d 411 (2<sup>nd</sup> 2004)  
**Lawrence v Blackwell**, 430 F.3d 368 (6<sup>th</sup> cir. 2005)

In all cases in which I was presented as an expert, the opposition accepted that designation, except in the Green Party of New York case. The U.S. District Court ruled that I qualify as an expert. See headnote #1 at page 342, and footnote nine on page 350. The 2<sup>nd</sup> circuit agreed, 389 F.3d 411 (2004), at 421.

#### SPEAKING ENGAGEMENTS: Colleges and Scholarly Meetings

Panel of New York City Bar Association, 1994. Ballot access.  
Amer. Political Science Assn., nat. conventions of August 1995 and August 1996. Papers.  
Capital University School, law school class, Columbus, Ohio, 1996. Guest lecturer.  
Cal. State U., course in political science, Hayward, 1993 and 1996. Guest lecturer.  
San Francisco City College, course in political science, 1996 and 1997. Guest lecturer.  
Providence College, R.I., Oct. 1997, seminar on ballot access.  
Harvard U., JFK School of Gov't, Oct. 18, 1995, guest lecturer, ballot access.  
Voting Integrity Project national conference, Apr. 1, 2000, speaker on ballot access.  
Center for Voting & Democracy nat. conference, Nov. 30, 2003, speaker on ballot access.  
Robert Dole Institute of Politics, U. of Kansas, one of 5 panel members, Oct. 25, 2007.

## PENNSYLVANIA SUPREME COURT SAYS IN-DISTRICT RESIDENCY LAW FOR CIRCULATORS CAN'T BE ENFORCED

On March 26, the Pennsylvania Supreme Court issued a unanimous decision, saying the state law that prohibits petitioners from working outside their home district can't be enforced, at least for minor party and independent candidate petitions. *In re The Nomination Petition of Carl Stevenson*, 54-MAP-2010.

The Pennsylvania law restricting petitioners to their home districts had already been declared unconstitutional in U.S. District Court in Pennsylvania in 2002, in a case called *Morrill v Weaver*, 224 F.Supp.2d 905, eastern district. The state had not appealed. Yet, that wasn't enough to settle the issue.

The *Morrill* decision had enjoined state and county election officials from enforcing the law. But, in Pennsylvania, election officials' acceptance of petitions does not mean that the candidate who submits the petition will be on the ballot. Pennsylvania is a "challenge" state. Anyone may challenge any candidate's petition, and then state court judges hear the challenge and decide whether to leave the candidate on the ballot or not. Pennsylvania state court judges had not been following the *Morrill* decision. But now, the Pennsylvania Supreme Court decision says they must follow it.

The decision is not only a victory on the issue of freedom for petitioners; it sends a signal to the lower Pennsylvania state courts that the Pennsylvania Supreme Court has a new interest in ballot access.

It would have been easy for the Supreme Court to have dismissed the *Stevenson* case without ruling on the constitutional issue. It is an old case, filed in 2010. Carl Stevenson had been an independent candidate for the legislature that year.

His petition had been challenged successfully in lower state court because some of his circulators didn't live in his district. The Pennsylvania Supreme Court, on October 4, 2010, had told the lower court to check all the signatures. The lower court had then done so, but had found that even if the petitions carried by out-of-district circulators were counted, the candidate still didn't have enough valid signatures.

The Pennsylvania Supreme Court, in its recent opinion, thus went out of its way to rule on the constitutional issue, even though it could easily have said that this case is moot, because the candidate didn't have enough valid signatures in any event. Clearly the Supreme Court wanted to settle this issue, so it ruled, notwithstanding the mootness argument.

The decision still leaves unresolved whether out-of-district circulators may work on primary petitions. That issue will probably be in court soon. Assuming the residency requirement is invalidated for primary petitions, then California will be the only state with an in-district residency requirement for circulators.

The new decision probably means that the state courts must now also follow the 1999 federal court decision on fusion. The 1999 federal decision had said that if Pennsylvania lets the qualified parties cross-endorse each other nominees for certain offices, then the state must let minor parties enjoy the same freedom. The 3<sup>rd</sup> Circuit had ruled favorably on this issue in *Reform Party of Allegheny County v Allegheny County Department of Elections*, 174 F.3d 305. But the state courts had refused to follow that decision as well, notably in the *Zulick* case in 2003.

## UTAH MAKES IT EASIER FOR PARTIES TO REMAIN ON BALLOT

On March 22, Utah Governor Gary Herbert signed HB 233, which says that when a party meets the 2% vote test, it is on the ballot for four years, not just two years.

It is fairly easy for a minor party in Utah to poll 2% for a statewide race in a presidential election year, because there are always five or six statewide partisan offices on the ballot. But it is difficult in midterm years, because generally only one office is on the ballot, U.S. Senate.

Nebraska will probably soon pass a similar law. The Nebraska bill is on consent calendar for April 2. Assuming the Nebraska bill passes, the only states that will still require a party to poll a certain share of the vote every two years, in order to remain ballot-qualified, are Alabama, Arkansas, Georgia, Iowa, Kansas, Massachusetts, Michigan, New Hampshire, New Jersey, North Dakota, Ohio, Oklahoma, and Wyoming.

## TEXAS DEMOCRATS' GIFT TO GREEN PARTY

Texas law requires a party to poll at least 5% for a statewide race (or 2% for Governor) in order to remain ballot-qualified.

This year, the Democratic Party has no nominees for five statewide positions. This is good news for the Green Party, because it has candidates for two of those five positions. With no Democrat in the race, those Greens are extremely likely to poll at least 5%. The Libertarian Party got 2% for Governor in 2010, so it is on the ballot automatically for 2012 and 2014.

April 1, 2012

### THREE NEW LAWSUITS FILED AGAINST EARLY PETITION DEADLINES

**Illinois:** on March 30, the Libertarian Party filed a lawsuit against the June petition deadline for minor party petitions. The Illinois petition deadline had always been in October, September, or August, until 1999, when it was moved to mid-June. The lawsuit also challenges the law that requires newly-qualifying parties to run a full slate. The case is *Libertarian Party of Illinois v State Board of Elections*, in U.S. District Court, northern district.

**New Mexico:** on March 29, the Green and Constitution Parties filed a federal lawsuit against the early April petition deadline for newly-qualifying parties. That deadline had always been in October, September, or July, until 1995, when it was moved to April. The case is *Constitution Party of New Mexico v Duran*.

**North Carolina:** on March 27, the Constitution Party filed a lawsuit against the May petition deadline for newly-qualifying parties. The State Board of Elections was so sure that deadline is unconstitutional, in 1988, it waived the deadline and let the New Alliance Party turn in its signatures in late July. But in recent years, it refuses to continue that policy. The case is *Constitution Party of North Carolina v Bartlett*, in U.S. District Court in the western district.

### CHART ON PAGE FOUR

The chart on page four lists the 49 known judicial decisions that either struck down early petition deadlines for newly-qualifying parties and independent candidates, or enjoined those deadlines, or suggested that such early deadlines are probably unconstitutional. The purpose of the chart is not only to serve as a reference, but to show a general reader that the case law on early deadlines is overwhelmingly favorable for ballot access. These lawsuit victories have taken place in thirty states.

### OKLAHOMA JUDGE DECLINES TO PUT LIBERTARIANS ON BALLOT, FOR NOW

On March 19, U.S. District Court Judge Timothy DeGiusti declined to issue an injunction putting the Libertarian Party on the Oklahoma ballot. He noted that the party submitted 57,137 signatures by the March 1 deadline, and that 51,739 are required and the petition had not yet been checked. He said wthe party may have enough signatures.

On March 29, the state said the Libertarian petition has 41,070 valid signatures. The party will renew its request for injunctive relief. The lawsuit challenges the early deadline. It also raises the due process problem: the 2011 legislature's act, changing the deadline, deprived the party of the statutory provision allowing a full year for petitioning. The party has over 8,000 more signatures that were collected after the deadline.

Oklahoma moved the petition deadline from May to March because it moved its primary from July to June, and says all parties, even newly-qualifying parties, must nominate by primary. The party said it is willing to nominate by convention, but the state says that isn't fair to candidates who might want to run in a Libertarian primary, even though the party would happily invite them to contest for a nomination at the convention.

Although Judge DeGiusti's order, denying injunctive relief, is fairly long (35 pages), nowhere does it discuss the precedents that say early petition deadlines for newly-qualifying parties are unconstitutional.

### FRANCE VOTERS HAVE TEN CHOICES

France holds a presidential election on April 22. The filing deadline was in March, and ten candidates qualified. They each needed 500 signatures from public officials.

### TEXAS PETITION DEADLINES FOR 2012 EXTENDED TO JUNE 29

On March 1, a U.S. District Court in Texas issued an order, moving the independent presidential petition deadline, the deadline for other independents, and the deadline for new parties, to June 29. The lawsuit, *Perez v State*, 5:11-cv-360, concerns redistricting. Because the court drew new U.S. House and legislative districts, it moved the primary from March 6 to May 29. Because it postponed the primary, it also had to set new deadlines for independent candidates for district office.

The statutory deadline for independent presidential candidates is the second Monday in May (May 14). Moving that deadline from May 14 to June 29 is a significant advantage to independent presidential candidates.

It also means that for the first time since 1984, no state has a deadline for an independent presidential candidate to get on a ballot that is earlier than June.

According to the Secretary of State, if a voter signs a petition for a minor party, and then votes in the May 29 primary, the signature is valid. If the voter votes and then signs, it is not valid. But independent candidates are not treated so well. If a voter signs for an independent candidate and then votes in the primary, the signature is not valid. This probably violates due process, because an independent candidate cannot know how many of his or her signers will later vote in the primary.

### CALIFORNIA TOP-TWO COURT HEARING

The March 1 *B.A.N.* said that a hearing would be held in Oakland, California, on March 6, in *Rubin v Bowen*. However, the hearing was postponed until April 10. This is the state court lawsuit filed by several minor parties against the California top-two system last year.

April 1, 2012

## U.S. SUPREME COURT WON'T HEAR BALLOT ACCESS CASES

On March 19, the U.S. Supreme Court refused to hear *Maslow v New York State Board of Elections*, which challenged a law that says only party members, or Notaries Public, may circulate a petition to get someone on a primary ballot.

On February 27, the Court refused to hear *Greene v N.C. State Board of Elections*, which challenged the petition requirement for independent candidates for U.S. House. The law requires a petition signed by 4% of the registered voters.

## NEBRASKA CONGRESS CANDIDATES NEED NOT BE REGISTERED VOTERS

On March 22, a Nebraska state court ruled that states cannot require congressional candidates to be registered voters. The decision is based on the 1995 U.S. Supreme Court opinion *U.S. Term Limits v Thornton*, which said states cannot add to the qualifications listed in the U.S. Constitution. The Nebraska case is *Nebraska Republican Party v Gale*, Lancaster County district court, 12-1102.

The Republican Party had sued to remove Bob Kerrey from the Democratic presidential primary ballot. Kerry is running for U.S. Senate. The Republican Party had charged that his voter registration is invalid, because he doesn't live at the place where he is registered to vote.

## CALIFORNIA PETITIONER RESIDENCY

On March 12, a California Superior Court in Shasta County ruled that recall petitions are valid, even if the circulator doesn't live in the jurisdiction that is considering holding a recall election. *Shasta County Citizens for Justice v City of Shasta Lake*, cv-174130. The opinion says, "The statutory scheme for remedies relating to improper signature gathering is to hold the circulator accountable, not the signator."

## BALLOT ACCESS BILLS

Arizona: HB 2826, which makes it more difficult for candidates to get on a presidential primary ballot, passed the House on February 20 and passed the Senate Judiciary Committee on March 5. It requires 1,000 signatures for a presidential candidate who has not qualified for Primary Season Matching funds and who cannot show that he or she is already on the presidential primary in at least 20 other states. Currently anyone may get on a presidential primary ballot just by request.

Alabama: the Senate will vote on SB 15, the ballot access improvement bill, on April 3. It lowers the number of signatures for a newly-qualifying party from 44,829 to 5,000, and also eases independent candidate requirements.

Georgia: even though the Secretary of State's Advisory Committee recommended that the number of signatures for independent candidates, and the nominees of unqualified parties, should be reduced, the legislature has killed the Secretary of State's bill to make that change. The Chairman of the House Rules Committee, Mark Hamilton, said he deleted the ballot access improvement parts of the Secretary of State's bill because the advocates of better ballot access had been rude to him.

Missouri: on March 8, the House passed HB 1236 by a vote of 144-1. It eliminates the requirement that the petition to create a new party (which, in general, does not require any candidates to be listed) must list candidates for presidential elector if the group expects to enter the presidential race.

Nebraska: on March 14, the Governor signed LB 759, which legalizes out-of-state petitioners.

Virginia: on March 2, the legislature passed HB 1151, which says that petitions are valid this year, whether the petitioners used the old U.S. House district boundaries or the new U.S. House district boundaries. The bill takes effect immediately.

## OTHER BILLS

Arizona: on March 15, the House Judiciary Committee passed SCR 1021, which puts a ballot question on the November 2012 ballot asking voters if they wish to stop funding the public funding program (for candidates for state office). The bill had already passed the Senate.

Idaho: on March 1, Governor Butch Otter signed HB 391, which eliminates the presidential primary, starting with this year. That means that two states that held presidential primaries in 2008 will not have held such primaries in 2012. The other state is Washington.

Kentucky: on March 5, Senate President David Williams introduced SB 7, which moves the presidential primary from May to the first week in August. Last year a bill like this passed the Senate, but not the House. The bill would not take effect until 2016. There is no logical reason why early August is too late for a presidential primary. The Republican National Convention opens August 27 this year, and Democrats start on September 3.

Maine: on March 8, the legislature's Joint Taxation Committee passed LD 1826 unanimously. It repeals the law that puts a question on the state income tax form, asking taxpayers if they wish to direct a small donation to the political party that the taxpayer chooses. The Maine Green Party usually gets half its annual income from the income tax form.

Maine (2): on March 20, the legislature passed LD 1774, which eliminates extra public funding for publicly-funded candidates who have well-financed opponents who don't use public funding.

Utah: the legislature adjourned without passing HB 50. The bill would have eliminated the question on the state income tax form that asks taxpayers if they wish to send a small donation to the taxpayer's favorite party. The House had passed the bill 51-20, but the Senate didn't vote on it.

**LAWSUITS WHICH ENJOINED OR OVERTURNED EARLY PETITION DEADLINES**

State	Case Name	Year	Court	Citation	Type	Deadline
Ala.	New Alliance Party v Hand	1991	11 <sup>th</sup> circuit	933 F.2d 1568	New party	Apr 6
Alas.	Sigler v McAlpine	1988	Superior	3AN-88-8695	New party/indp.	June 1
Alas.	Sykes v McAlpine	1990	Superior	3AN-90-7508	New party/indp.	Aug. 1
Alas.	Libertarian Party v Coghill	1992	Superior	3AN-92-8181	President new party	Aug. 5
Ariz.	Nader v Brewer	2011	9 <sup>th</sup> circuit	531 F.3d 1028	President indp.	June 9
Ark.	Lendall v Bryant	1974	US District	387 F.Supp. 397	Independent	April 2
Ark.	Lendall v Jernigan	1977	US Supreme	433 U.S. 901	Independent	April 6
Ark.	American Party v Jernigan	1977	US District	424 F.Supp. 943	New party	Mar 7
Ark.	Lendall v McKuen	1988	US District	LR-C-88-311	Independent	Jan. 5
Ark.	Cit. to Est. Reform Party v Priest	1996	US District	970 F.Supp. 690	New party	Jan. 2
Ga.	Bergland v Harris	1985	11 <sup>th</sup> circuit	767 F.2d 1551	President new party	July 11
Hi.	Liberrtarian Party v Waihee	1986	US District	cv-86-0439	New party	Apr 21
Id.	Populist Party v Evans	1984	9 <sup>th</sup> circuit	84-4108	New party	May 30
Ill.	Lee v Keith	2006	7 <sup>th</sup> circuit	463 F.3d 763	Independent	Dec 15
Ind.	Warrick v Condre	1983	US District	IP-83-810-C, s.d.	New party/indp.	Feb. 22
Ks.	Merritt v Graves I	1988	US District	87-4264-R	Independent	June 10
Ky.	Libertarian Party of Ky v Ehrler	1991	US District	776 F.Supp 1200	New party/indp.	Jan. 30
Me.	Anderson v Quinn	1980	1 <sup>st</sup> circuit	634 F.2d 616	President indp.	April 1
Me.	Stoddard v Quinn	1984	US District	593 F.Supp 300	New party/indp.	April 1
Md.	Bradley v Mandel	1978	US District	449 F.Supp 983	New party/indp.	Mar 8
Md.	Anderson v Morris	1980	4 <sup>th</sup> circuit	636 F.2d 55	President indp.	Mar 3
Mass	Serrette v Connolly	1985	Superior	68172, Suffolk	New party/indp.	May 8
Mo.	McCarthy v Kirkpatrick	1976	US District	420 F.Supp 366	Independent	Apr. 27
Mt.	Simonton v Boje	2010	Dawson Dist.	DV-90-058	Independent	Mar. 15
Neb.	MacBride v Exon	1977	8 <sup>th</sup> circuit	558 F.2d 443	President new party	Feb. 11
Nev.	Libt. Party of Nev. v Swackhamer	1986	US District	638 F.Supp 565	New party	Apr. 1
Nev.	Fulani v Lau	1992	US District	CV-N-92-535	New party/indp.	June 10
N.J.	LaRouche v Burgio	1984	US District	594 F.Supp 614	President indp.	Apr. 26
N.J.	Council of Alt. Parties v Hooks	1997	3 <sup>rd</sup> circuit	121 F.3d 876	New party/indp.	Apr. 10
N.M.	Anderson v Hooper	1980	US District	498 F.Supp 898	President indp.	Mar. 4
N.C.	Greaves v State Bd. of Elections	2009	US District	508 F.Supp 78	President indp.	Apr. 25
N.D.	McLain v Meier	1980	8 <sup>th</sup> circuit	637 F.2d 1159	New party	June 1
Ohio	Williams v Rhodes	1968	US Supreme	393 U.S. 23	New party	Feb. 7
Ohio	Anderson v Celebrezze	1983	US Supreme	460 U.S. 780	President indp.	Mar.20
Ohio	Denny v Eyrich	1984	US District	C-1-84-531,s.d.	Independent	Feb 23
Ohio	Cripps v Seneca Co. Bd Election	1985	US District	629 F.Supp 1335	Independent	Feb 21
Ohio	Libt. Party of Ohio v Blackwell	2000	6 <sup>th</sup> circuit	462 F.3d 579	New party	Nov 3
Pa.	Peoples Party v Tucker	1972	US District	347 F.Supp 1	New party/indp.	Mar 8
Pa.	Consumer Party v Tucker	1973	US District	364 F.Supp 594	New party/indp.	Mar 28
Pa.	Salera v Tucker	1976	US Supreme	424 U.S. 959	New party/indp.	Apr 4
Pa.	Libt. Party v Davis	1984	US District	84-0262, m.d.	New party/indp.	Apr 20
Pa.	Hall v Davis	1984	US District	84-1057, e.d.	New party/indp.	Apr 20
R.I.	McCarthy v Noel	1976	US District	420 F.Supp 799	President indp.	Aug 12
S.D.	Nader 2000 Comm. v Hazeltine	2000	US District	110 F.Sup 2 1201	President indp.	Jun 20
S.D.	Libertarian Party of SD v Kundert	1983	US District	civ-83-3071	New party	Mar 15
Tn.	Libertarian Party of Tn v Goins	2010	US District	793 FSup 2d 1064	New party	Mar 10
Tn.	Green Party of Tn. v Hargett	2012	US District	2012 WL 379774	New party	Apr 5
Ut.	LaRouche v Monson	1984	US District	599 F.Supp 621	President indp.	Apr 15
Wy.	Populist Party v Herschler	1984	10 <sup>th</sup> circuit	746 F.2d 656	New party	June 1

This table includes a few cases in which the state agreed that its deadline was too early, and signed a consent decree. It also includes one case, *Bergland v Harris*, in which the court suggested the deadline was too early, but remanded the case to a lower court for more fact-finding. The legislature then eased the deadline and no further proceedings were held.

**2012 PETITIONING FOR PRESIDENT**

April 1, 2012

Ballot Access News

STATE	REQUIREMENTS		SIGNATURES COLLECTED				DEADLINES	
	FULL PARTY	CAND	LIB'T	GREEN	CONSTITI	AMER ELE	Party Due	Indp. Due
Ala.	44,829	5,000	in court	in court	in court	finished	Mar. 13	Sep. 6
Alaska	(reg) 7,406	#3,271	already on	*2,015	*45	already on	June 1	Aug. 8
Ariz.	23,041	(est) #27,000	already on	already on	0	already on	Mar. 1	Sep. 7
Ark.	10,000	#1,000	already on	already on	0	already on	April 7	Aug. 1
Calif.	(reg) 103,004	172,859	already on	already on	negotiation	already on	Jan. 2	Aug. 10
Colo.	(reg) 1,000	#pay \$500	already on	already on	already on	already on	Jan. 8	June 4
Conn.	no procedure	#7,500	0	*850	0	0	---	Aug. 8
Del.	(est.) (reg) 650	(est.) 6,500	already on	570	454	0	Aug. 21	July 15
D.C.	no procedure	(est.) #3,900	can't start	already on	can't start	can't start	---	*Aug. 8
Florida	0	112,174	already on	already on	already on	already on	Sep. 1	July 15
Georgia	50,334	#51,845	already on	0	0	*finished	*July 10	*July 10
Hawaii	691	#4,536	already on	*already on	0	finished	*Feb. 23	Sep. 7
Idaho	13,102	1,000	already on	0	already on	*6,100	Aug. 30	Aug. 24
Illinois	no procedure	#25,000	*0	*0	*0	*0	---	June 25
Indiana	no procedure	#34,195	already on	*200	0	0	---	June 30
Iowa	no procedure	#1,500	0	*20	0	*1,900	---	Aug. 17
Kansas	16,776	5,000	already on	0	0	already on	June 1	Aug. 6
Ky.	no procedure	#5,000	0	0	0	0	---	Sep. 7
La.	(reg) 1,000	#pay \$500	already on	already on	0	0	May 17	Sep. 4
Maine	28,639	#4,000	0	already on	0	already on	Dec 8, 11	Aug. 8
Md.	10,000	(est.) 35,000	already on	already on	*1,150	*finished	Aug. 6	Aug. 6
Mass.	(est) (reg) 40,000	#10,000	*0	already on	*0	0	Nov. 1, 11	July 31
Mich.	32,261	30,000	already on	already on	already on	already on	July 19	July 19
Minn.	105,352	#2,000	0	0	0	0	May 1	Aug. 21
Miss.	be organized	1,000	already on	already on	already on	already on	Jan. 6	Sep. 7
Mo.	10,000	10,000	already on	0	already on	finished	July 30	July 30
Mont.	5,000	#5,000	already on	0	200	*already on	Mar. 15	Aug. 15
Nebr.	4,880	2,500	already on	0	0	*already on	Aug. 1	Sep. 1
Nev.	7,013	7,013	already on	0	already on	already on	April 13	July 6
N. Hamp.	13,698	#3,000	*17,800	50	0	*21,500	Aug. 8	Aug. 8
N.J.	no procedure	#800	0	0	0	0	---	July 30
N. M.	3,009	18,053	already on	*finished	*finished	already on	Apr. 3	June 27
N. Y.	no procedure	#15,000	can't start	already on	can't start	can't start	---	Aug. 21
No. Car.	85,379	85,379	already on	500	3,000	*already on	May 16	June 14
No. Dak.	7,000	#4,000	*7,100	0	*6,500	finished	Apr. 13	Sep. 7
Ohio	show support	5,000	already on	already on	already on	already on	unsettled	Aug. 8
Okla.	51,739	43,890	*in court	in court	0	*already on	March 1	July 15
Oregon	21,804	18,279	already on	9,025	already on	finished	Aug. 28	Aug. 28
Penn.	no procedure	#20,601	*400	*200	*450	*0	---	Aug. 1
R.I.	17,115	#1,000	0	0	0	already on	June 1	Sep. 7
So. Car.	10,000	10,000	already on	already on	already on	finished	May 6	July 15
So. Dak.	7,928	3,171	*already on	0	*finished	finished	Mar. 27	Aug. 7
Tenn.	40,042	275	0	already on	already on	finished	April 5	Aug. 16
Texas	49,729	80,778	already on	already on	*0	*5,300	*June 29	*June 29
Utah	2,000	#1,000	already on	*already on	already on	already on	Feb. 15	Aug. 15
Vermont	be organized	#1,000	already on	0	0	already on	Jan. 1	Jun 14
Virginia	no procedure	#10,000	*500	*200	0	0	---	Aug. 24
Wash.	no procedure	#1,000	can't start	can't start	can't start	can't start	---	Aug. 28
West Va.	no procedure	#7,135	0	already on	0	*6,000	---	Aug. 1
Wisc.	10,000	#2,000	0	0	already on	*finished	*April 1	Aug. 7
Wyo.	3,740	3,740	already on	0	*already on	*already on	June 1	Aug. 28

TOTAL STATES ON

\*30 \*20 \*14 \*21

#partisan label permitted (other than "independent"). "AMER ELE" = Americans Elect Party. \* change since March 1 issue.

MAINE MAY ELECT AN INDEPENDENT  
U.S. SENATOR THIS YEAR

April 1, 2012

Ballot Access News

On March 5, Angus King said that he will run for U.S. Senate this year as an independent. Polls have showed that he is likely to win. He was elected as an independent Governor in 1994, and easily re-elected in 1998.

Although Maine has had strong independent candidates for Governor in the last forty years (an independent was elected three times), no independent candidate for U.S. Senate in Maine has ever polled as much as 10% of the vote, in the history of popular U.S. Senate elections, which started in 1914.

**FORMER OR CURRENT PUBLIC OFFICIALS RUN AS INDEPENDENT CANDIDATES**

During March, several current or former public officials announced plans to run as independents. On March 22, Nancy Argenziano, a former Republican State Senator, said she will run as an independent for the Florida House. On March 11, former Democratic Congressman Donald A. Bailey said he will run for Pennsylvania Attorney General as an independent. On March 21, Jack Cunningham, the Republican County Clerk of Kane County, Illinois, said he may run for Congress as an independent.

**MINOR PARTY PRESIDENTIAL PRIMARIES**

Arizona: Green Party primary, February 28, results are Jill Stein 385, Kent Mesplay 50, Richard Grayson 39, Michael Oatman 39, Gary Swing 30, Gerard Davis 18.

Massachusetts: Green Party primary, March 6, with these candidates on the ballot: Jill Stein, Kent Mesplay, Harley Mikkelson. Neither the Secretary of State nor the media have yet reported the results.

Missouri: Libertarian primary, Feb. 7: James Ogle 483, uncommitted 431. None of the other Libertarians seeking the party's nomination entered this primary.

**AMERICANS ELECT**

Former Governor and U.S. Senator David Boren, a Democrat who is now President of the University of Oklahoma, recently became an endorser and spokesperson for Americans Elect. Also Michal Eisner, former CEO of the Disney Company, recently published an op-ed in favor of Americans Elect.

Currently there are 28 announced candidates for the Americans Elect nomination, including some presidential candidates who are also seeking the nomination of another party, or who have already received the nomination of another party. Rocky Anderson of the Justice Party, Marlin Miller of American Third Position Party, David Jon Sponheim of America's Third Party, and R. J. Harris of the Libertarian Party, also are officially seeking the Americans Elect nomination. Buddy Roemer, who is seeking it, is also seeking the Reform Party nomination.

As of March 29, Americans Elect had collected 2,494,000 signatures across the nation.

Americans Elect recently received a Trademark for its name.

**PARTIES NOT ON PETITIONING CHART**

Parties that are not included on the petitioning chart on page five, but which are attempting to get on the ballot, are: (1) the Justice Party has 50 signatures in Kentucky, 100 signatures in Ohio, 100 in Pennsylvania, and 200 in Texas; (2) American Third Position has 75 signatures in Mississippi, 25 in New Jersey, and 300 in West Virginia; (3) the Socialist Party has 400 in New Jersey, and is working to requalify in Florida; (4) the Party for Socialism and Liberation has finished its Vermont petition.

The Justice Party is hoping that one-state ballot-qualified parties in Connecticut, Delaware, Michigan, New Mexico, Oregon, South Carolina, and Vermont, will nominate Rocky Anderson for President. Five of those parties nominated Ralph Nader in 2008.

I want to receive **BALLOT ACCESS NEWS**.  
I enclose \$16.00 for 1 year (foreign: \$20).  
Make check out to "Ballot Access News"

**BALLOT ACCESS NEWS** (ISSN 10436898)  
published by Richard Winger, \$16 per year,  
12 times per year. "COFOE" is the Coalition  
for Free and Open Elections. 4

I want to join COFOE. Enclosed is \$ \_\_\_\_\_  
(includes one-year subscription to *B.A.N.*, or one-year renewal).  
Make check out to "COFOE". Minimum dues are \$25.

**RENEWALS**: If this block is marked,  
your subscription is about to expire.  
If you use Paypal, use ban@richardwinger.com

Enclosed is: \_\_\_ \$30 \_\_\_ \$35 \_\_\_ \$50 \_\_\_ other

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_