

No. 11-55316

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**LIBERTARIAN PARTY OF LOS
ANGELES COUNTY, THEODORE
BROWN, and CHRISTOPHER
AGRELLA**

Appellants/Appellants,

v.

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

Defendant/Appellee.

On Appeal from the United States District Court
for the Central District of California

No. CV10-2488 PSG (OPx)
The Honorable Philip S. Gutierrez, Judge

APPELLEE'S MOTION TO TAKE JUDICIAL NOTICE

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Pursuant to Federal Rules of Evidence, rule 201 (b)(2), Appellee, Secretary of State Deborah Bowen, respectfully requests this honorable court to take judicial notice of her written advisory directed to County Clerks & Registrars of Voters in California, issued January 27, 2010, and posted at the Secretary's website at www.sos.ca.gov/elections/ccrov/ as this record:

www.sos.ca.gov/elections/ccrov/pdf/2010/january/10038rd.pdf.

A true and correct copy of this document is attached hereto.

Judicial notice of this document is appropriate because its existence is “capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” Fed.R.Evid. 201(b); *Nugget Hydroelectric, L.P. v. Pac. Gas & Elec. Co.*, 981 F.2d 429, 435 (9th Cir.1992) (taking judicial notice of the existence of decisions of the California Public Utility Commission on force majeure claims).

Dated: September 21, 2011

Respectfully Submitted,

KAMALA D. HARRIS
Attorney General of California
DOUGLAS J. WOODS
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A handwritten signature in black ink, appearing to read "Witmer", written in a cursive style.

MICHAEL GLENN WITMER
Deputy Attorney General
*Attorneys for Defendant Debra Bowen,
California Secretary of State*

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CERTIFICATE OF SERVICE

Case Name: ***Libertarian Party of Los Angeles County, et al. v. Debra Bowen***

Case No. **CV10-2488 PSG (OPx)**

I hereby certify that on September 21, 2011, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

APPELLEE'S MOTION TO TAKE JUDICIAL NOTICE

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

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

I further certify that some of the participants in the case are not registered CM/ECF users. On September 21, 2011, I have caused to be mailed in the Office of the Attorney General's internal mail system, the foregoing document(s) by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within three (3) calendar days to the following non-CM/ECF participants:

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The Honorable Philip S. Gutierrez
United States District Court, Central District
Edward R. Roybal Federal Building
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I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on September 21, 2011, at Los Angeles, California.

Cecilia Apodaca
Declarant

s/ *Cecilia Apodaca*
Signature