

P11

NO. 2010-01196

CHRIS DANIEL
Plaintiff,

V.

JARED WOODFILL, IN HIS
CAPICITY AS CHAIRMAN OF THE
HARRIS COUNTY REPUBLICAN
PARTY

Defendants.

§
§
§
§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT

164th JUDICIAL DISTRICT

FILED

Loror Jackson
District Clerk

JAN 08 2010

Time: _____

By _____
Harris County, Texas
OF HARRIS COUNTY, TEXAS
Deputy

**PLAINTIFF'S FIRST AMENDED APPLICATION AND AFFIDAVIT FOR
TEMPORARY RESTRAINING ORDER AND PERMANENT INJUNCTION**

1. *Parties.*

a. Plaintiff, CHRIS DANIEL, an Individual whose address is, 11418 Hambleton Way, Houston, Texas 77065, makes this Application for Temporary Restraining Order and Permanent Injunction.

b. The last three digits of the driver's license number of CHRIS DANIEL are 510. The last three digits of the social security number for CHRIS DANIEL are 905.

c. Defendant JARED WOODFILL, IN HIS CAPICITY AS CHAIRMAN OF THE HARRIS COUNTY REPUBLICAN PARTY can be served at his office address at 3311 Richmond Avenue, Suite 219, Houston, Texas 77098; however, it is anticipated that he will waive service of process and make an appearance in this case.

d. Third Party Defendant Steve Dorman, may be served with process by personal service at his home address at 10023 Inwood Dr., Houston, Texas 77042; however, it is anticipated that he will wave service of process and make an appearance in

CONFIRMED FILE DATE: 1/8/2010

this case.

2. *Facts.*

a. Plaintiff, Chris Daniel is a candidate for Harris County District Clerk in the Harris County Republican Primary scheduled for March 2, 2010 election. Mr. Daniel meets all of the qualifications to run for this office.

b. Third Party Defendant, Steve Dorman filed for re-election, as a candidate for Precinct Chair in the Harris County Republican Primary scheduled for March 2, 2010, for Harris County Republican Precinct 130 at 3:13pm on October 20, 2009.

c. At approximately 4:00 pm on January 4, 2010 Steve Dorman attempted to file for Harris County District Clerk. At that time the Republican Primary Director Donna Bahorich refused to accept the application.

d. At 5:42 pm on January 4, 2010, Jared Woodfill, the Harris County Republican Chairman, sent an email to the Republican Primary Director Donna Bahorich directing her to conditionally accept Steve Dorman's withdrawal form for Precinct Chair and his application for Harris County District Clerk, so that Chairman Woodfill could have his 5 day review time to make a decision on acceptance.

e. At 5:52 pm on January 4, 2010, Steve Dorman submitted paperwork to withdraw from running for Republican Precinct Chair, in said election.

f. At 5:54pm on January 4, 2010, Steve Dorman submitted paperwork to file for Harris County District Clerk.

3. *Grounds.*

a. *§172.052 of the Texas Election Code* prohibits a candidate for nomination from withdrawing from the general primary election after the 62nd day

before general primary election day. December 30, 2009 was the final day for a candidate to withdraw from the March 2, 2010 Primary Election.

b. § 141.033 of the Texas Election Code prohibits a candidate from filing an application for a place on the ballot for two or more offices that they are not permitted by law to be held by the same person; and are to be voted on at one or more elections held on the same day. If a person files more than one application for a place on a ballot in violation of this section, each application filed subsequent to the first one filed is invalid.

c. § 161.005 of the Texas Election Code requires that to be eligible to be a candidate for or to serve as a county or precinct chair of a political party, a person must:

- (1) be a qualified voter of the county; and
- (2) not be a candidate for nomination or election to, or be the holder of, an elective office of the federal, state, or county government.

4. *Standing.*

Plaintiff, Chris Daniel has standing to bring this cause of action.

In re The Honorable Brent Gamble 71 S.W.3rd 313 (Tex 2002) The Texas Supreme Court upheld the proposition that a person who is being harmed or is in danger of being harmed by a violation or threatened violation of this code is entitled to appropriate injunctive relief to prevent the violation from continuing. The Texas Supreme Court went on to affirm that a request for injunctive relief invokes a court's equity jurisdiction. As is evident, the Legislature has specifically called upon the courts to exercise their equitable powers to resolve election code violations. And when exercising such a jurisdiction, a court must, among other things, balance competing equities. Thus, the provision for injunctive relief in

section 273.081 of Election Code incorporates these principles which, in turn, control the remedy.

In re Bell, 91 S.W.3rd 784 (Tex. 2002) The Texas Supreme Court stated: Section 1.003(a), which was added to the Election Code in 1985, states that “[t]he Code Construction Act (Chapter 311, Government Code) applies to the construction of each provision in this code.” *Id.* § 1.003(a): Act of May 9, 1985, 69th Leg., R.S. ch. 211, § 1, 1985 Tex. Gen. Laws 802, 805 (codified at Tex. Elec. Code § 1.003). The Code Construction Act states that the Legislature is presumed to have intended a “just and reasonable result” in enacting statutes. Tex. Gov’t Code § 311.02(3). It also makes clear that courts may consider the “legislative history” and the “object sought to be attained” in construing statutes. *Id.* § 311.023(1).(3). The legislative history to the 1997 Election Code amendments indicates that the Legislature was concerned with, among other things, preventing election fraud. See Senate Comm. On State Affairs, Bill Analysis, Tex. H.B. 331, 75th Leg., R.S. (1997); House Comm. On Elections, Bill Analysis, Tex. H.B. 331, 75th Leg., R.S. (1997).

Plaintiff does not have an adequate remedy at law.

5. *Conditions Precedent.* All conditions precedent have been performed or have occurred.

6. *Prayer.*

Plaintiff prays that-

a. without notice to Defendant or Third-Party Defendant, the Court issue a temporary restraining order restraining Defendant, and his officers, agents,

servants, and employees from directly or indirectly allowing Third-Party Defendant Steve Dorman to be placed on the Harris County Primary Election scheduled for March 2, 2010 for the office of Harris County District Clerk.

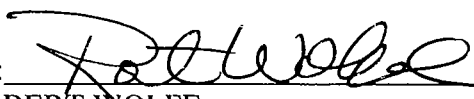
b. the Court set a date and time for a hearing on this application for a temporary restraining order and permanent injunction;

c. Defendants be cited to appear and answer;

d. after hearing, the Court issue a permanent injunction enjoining Defendants, and their officers, agents, servants, and employees from directly or indirectly allowing Third-Party Defendant Steve Dorman to be placed on the Harris County Primary Election scheduled for March 2, 2010 for the office of Harris County District Clerk.

Plaintiff be granted all further relief to which Plaintiff may be entitled.

Respectfully submitted,

By: 
ROBERT WOLFE
Texas Bar No. 21859600
9950 CYPRESSWOOD, SUITE 201
HOUSTON, TX 77070
Tel. (713) 225-5244
Fax. (281) 807-3756
Attorney for Plaintiff
CHRIS DANIEL

TEXAS BUSINESS RECORDS AFFIDAVIT

STATE OF TEXAS

COUNTY OF DALLAS

Before me, the undersigned authority, on this day personally appeared

Sharon Hicks, who, being duly sworn, deposed as follows:

"My name is Sharon Hicks. I am of sound mind, capable of making this affidavit and personally acquainted with the facts herein stated. I am the custodian of my records for the 2010 Republican Party Primary.

The attached four pages are true and accurate documents pertaining to STEVE DORMAN'S APPLICATIONS AND WITHDRAWAL FOR PRECIENT CHAIR AND APPLICATION FOR HARRIS COUNTY DISTRICT CLERK constituting this cause of action, is taken from the original documents of entry, and such records or books are kept by the Harris County Republican Party in the regular course of business, and it is the regular course of business of the Harris County Republican Party, with the knowledge of the act, event, condition or opinion, recorded to make the record or to transmit information thereof to be included in such record; and the record was made at or near the time or reasonably soon thereafter. The records attached hereto are the original or exact duplicates of the original. The records are true and are within the knowledge of this affiant.

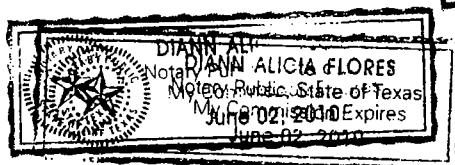
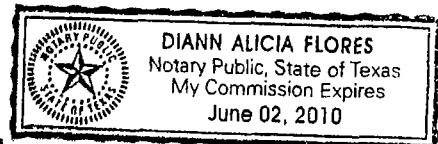
Sharon A. Hicks
Affiant:

Subscribed and sworn to before me this 7th day of January, 2010.

Diann Alicia Flores
Notary Public, State of Texas

My Commission Expires: 6/2/2010
Diann Alicia Flores

Printed Name of Notary



All information is required to be provided unless indicated as optional. (Se requiere toda la información a menos que haya alguna indicación que no es obligatoria.)

RECEIVED
 HARRIS COUNTY
 REPUBLICAN PRIMARY

EX COPY

APPLICATION FOR PRECINCT CHAIR ON THE Republican PARTY GENERAL PRIMARY BALLOT
 (APLICACION PARA EL PRESIDENTE DEL PRECINCT CHAIR EN LA BOLETA DE LA PRIMARIA REPUBLICANA)

TO: County Chair
 (A: Presidente del Condado)

I request that my name be placed on the above-named official primary ballot as a candidate for the office indicated below.
 (Solicito que mi nombre esté puesto en la arriba nombrada boleta oficial de esta primaria como candidato para la elección al puesto oficial indicado abajo.)

2009 OCT 20 P 3 13

OFFICE SOUGHT (PUESTO OFICIAL SOLICITADO) Include any place number or other distinguishing number, if any. (Incluya cualquier número de lugar u otro número que hace el puesto oficial diferente a otros, si hay alguno.) <u>PRECINCT CHAIR 130</u>	INDICATE FULL OR UNLIT TERM (INDIQUE SI EL TERMINO DEL PUESTO OFICIAL ES UNO COMPLETO O NO COMPLETADO) <u>FULL</u>
--	--

FULL NAME (First, Middle, Last) (NOMBRE COMPLETO) (Nombre de Pila, Segundo Nombre, Apellido) <u>STEVEN PAUL DORMAN</u>	PRINT NAME AS YOU WANT IT TO APPEAR ON THE BALLOT (ESCRIBA SU NOMBRE COMO DESEA QUE APAREZCA EN LA BOLETA) <u>B STEVE DORMAN</u>
--	--

PERMANENT RESIDENCE ADDRESS (Street address and apartment number. If none, describe location of residence. Do not include P.O. Box or Rural Rt.) (DIRECCION DE RESIDENCIA PERMANENTE: Calle y Número de Departamento; si no tiene, describa la localidad de su residencia. No incluya su caja postal o ruta rural.) <u>10023 INWOOD DR</u>	MAILING ADDRESS (If different from residence address) (DIRECCION POSTAL (Si es diferente a su dirección de residencia))
---	--

CITY (CIUDAD) <u>HOUSTON</u>	STATE (ESTADO) <u>TX</u>	ZIP (ZONA POSTAL) <u>77042</u>	CITY (CIUDAD) <u>HOUSTON</u>	STATE (ESTADO) <u>TX</u>	ZIP (ZONA POSTAL) <u>77042</u>
---------------------------------	-----------------------------	-----------------------------------	---------------------------------	-----------------------------	-----------------------------------

OCCUPATION (Do not leave blank) (EMPLEO) (No lo deje en blanco) <u>PARK Supt.</u>	DATE OF BIRTH (FECHA DE NACIMIENTO) <u>8-31-59</u>	COUNTY OF RESIDENCE (CONDADO DE RESIDENCIA) <u>HARRIS</u>
---	--	---

TELEPHONE NUMBER (Include area code) (Optional) (NUMERO DE TELEFONO Incluya el código de la área) (Facultativo) OFFICE: <u>7-480 7788</u> HOME: <u>7-7819677</u>	Length of Continuous Residence as of Date Application Sworn (Tiempo en que ha Residido en un Solo Lugar en la Fecha en que Prestó Juramento Sobre la Solicitud)
	IN STATE (EN EL ESTADO) <u>35 yr(s) mos</u> IN COUNTY (EN EL CONDADO) <u>35 yr(s) mos</u> IN DISTRICT OR PRECINCT (EN EL DISTRITO O PRECINCTO) <u>35 yr(s) mos</u>

If using a nickname as part of your name to appear on the ballot, you are also signing and swearing to the following statements: I further swear that my nickname does not constitute a slogan nor does it indicate a political, economic, social, or religious view or affiliation. I have been commonly known by this nickname for at least three years prior to this election. Para poder incluir un apodo como parte de su nombre completo el la papeleta, Ud. deberá firmar la siguiente constancia: Además, juro que se me ha conocido por este apodo por mas de tres años. Además, juro que el apodo no es un lema político ni una indicación de mis creencias o afiliaciones políticas, económicas, sociales, o religiosas.

Before me, the undersigned authority, on this day personally appeared (name) STEVE DORMAN, who being by me here and now duly sworn, upon oath says: "I, (name) STEVE DORMAN, of HARRIS COUNTY County, Texas, being a candidate for the office of PRECINCT CHAIRMAN, swear that I will support and defend the Constitution and laws of the United States and of the State of Texas. I am a citizen of the United States eligible to hold such office under the Constitution and laws of this state. I have not been finally convicted of a felony for which I have not been pardoned or had my full rights of citizenship restored by other official action. I have not been determined by a final judgment of a court exercising probate jurisdiction to be totally mentally incapacitated or partially mentally incapacitated without the right to vote. I am aware of the nepotism law, Chapter 573, Government Code.

I further swear that the foregoing statements included in my application are in all things true and correct."

(Ante mí, la autoridad, suscrita apareció en persona _____, quien habiendo aquí y ahora prestado juramento debido, bajo juramento dice: "Yo, _____ del condado de _____, Texas, siendo candidato para el puesto oficial de _____, solemnemente juro que apoyaré y defenderé la Constitución y las leyes de los Estados Unidos y del Estado de Texas. Soy ciudadano de los Estados Unidos elegible para ocupar tal puesto oficial bajo la Constitución y las leyes de este Estado. No me han determinado por un juicio final de una corte de la legalidad de un testamento, ser totalmente incapacitado mentalmente o parcialmente incapacitado sin el derecho de votar, ni he sido probado culpable finalmente de una felonía por la cual no he sido perdonado o por la cual no se me han restituido enteramente mis derechos de ciudadanía por medio de otra acción oficial. Yo tengo conocimiento de la ley sobre el nepotismo según el capítulo 573 de Código Gobierno.

Además juro que las precedents declaraciones que incluyo en mi solicitud son verdaderas y están correctas en todos sentidos.")

X Steve Dorman
 SIGNATURE OF CANDIDATE (FIRMA DEL CANDIDATO)

Sworn to and subscribed before me at <u>Harris</u> , this the <u>19th</u> day of <u>October</u> , 2009. (Jurado y suscrito ante mí en _____, este día _____ de _____, 2009.)	AMANDA L. DAY Notary Public STATE OF TEXAS My Comm Exp Jul. 30, 2011
<u>Amanda L. Day</u> Signature of Officer administering oath! (Firma del oficial administrando el juramento)	<u>Notary Public</u> Title of Officer administering oath! (título del oficial administrando el juramento)

TO BE COMPLETED BY CHAIR:
 (See Section 1.007)

10/20/09 Date Received
[Signature] Signature of Chair

Jeff Yates

From: Jared Woodfill [jwoodfill@woodfill-pressler.com]
Sent: Monday, January 04, 2010 5:42 PM
To: donna.bahorich@harriscountygop.com
Cc: Jeff Yates



Donna,

Regarding Steve Dorman (who previously applied for Pct. Chair in Pct. 130):

Please accept his withdrawal for Pct. Chair 130 and application for Harris County District Clerk.

I plan to use the allowable time to review the situation regarding his withdrawal/application situation.

Regards,

Jared Woodfill

JEFF YATES

EXECUTIVE DIRECTOR

HARRIS COUNTY REPUBLICAN PARTY

3311 RICHMOND AVE., SUITE 218

HOUSTON, TEXAS 77098

713-838-7900 * 713-838-7901 (FAX)

WWW.HARRISCOUNTYGOP.COM

RECEIVED
HARRIS COUNTY
REPUBLICAN PRIMARY

COPI

I, STEVE DORMAN 2010 JAN -4 P 5:52 candidate for the office of
PRECINCT CHAIRPERSON #130, hereby withdraw my candidacy from the
PRIMARY (REPUBLICAN) election. The election is being conducted by
Harris County Republican Party and is to be held on 3-2-10
(political subdivision/county/party) (date)

Steve Dorman
Signature of Candidate

"The State of Texas,

"County of Harris,

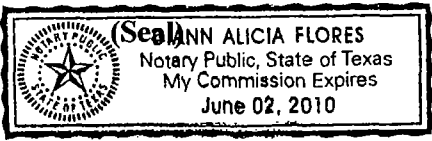
"This instrument was acknowledged before me on 1/4/10 by
(date)

Steve Dorman
(withdrawing candidate)

A. Alicia Flores
(Signature of officer)

Notary
(Title of officer)

My commission expires: 6/02/10



Forma prescrita por la Secretaría de Estado
Fracción 145.001 del Código Electoral de Tejas

CONSTANCIA DE RETIRO DE CANDIDATURA

Yo, _____, candidato/a al cargo de _____, por este
medio retiro mi candidatura de la elección _____. Dicha elección estará a
cargo de _____ y se celebrará el _____.
(subdivisión política/condado/partido) (fecha)

Firma del/de la Candidato/a

"El estado de _____,

"Condado de _____,

RECEIVED
 HARRIS COUNTY
 REPUBLICAN PRIMARY GENERAL PRIMARY BALLOT
COPY

APPLICATION FOR A PLACE ON THE
 (APLICACION PARA UN LUGAR EN LA BOLETA DE LA PRIMARIA GENERAL DEL PARTIDO)

TO: State/County Chair (A: Nombre o Título del Propio Oficial del Partido)
 I request that my name be placed on the above-named official primary ballot as a candidate for nomination to the office indicated below.
 (Solicito que mi nombre esté puesto en la arriba nombrada boleta oficial de esta primaria como candidato para la nominación al puesto oficial indicado abajo.)

OFFICE SOUGHT (PUESTO OFICIAL SOLICITADO)
 Include any place number or other distinguishing number, if any.
 (Incluya cualquier número de lugar u otro número que hace el puesto oficial diferente a otros, si hay alguno.)
HARRIS COUNTY DISTRICT CLERK

INDICATE FULL OR UNEXPIRED TERM
 (INDIQUE SI EL TERMINO DEL PUESTO OFICIAL ES TERMINO COMPLETO O NO COMPLETADO)
FULL

FULL NAME (First, Middle, Last)
 (NOMBRE COMPLETO) (Nombre de Pila, Segundo Nombre, Apellido)
STEVEN PAUL DORMAN

PRINT NAME AS YOU WANT IT TO APPEAR ON THE BALLOT
 (ESCRIBA SU NOMBRE COMO DESEA QUE APAREZCA EN LA BOLETA)
STEVE DORMAN

PERMANENT RESIDENCE ADDRESS (Street address and apartment number. If none, describe location of residence. Do not include P.O. Box or Rural Rt.) (DIRECCION DE RESIDENCIA PERMANENTE: Calle y Número de Departamento: si no tiene, describa la localidad de su residencia. No incluya su caja postal o ruta rural.)
10023 INWOOD

MAILING ADDRESS (If different from residence address)
 (DIRECCION POSTAL (Si es diferente a su dirección de residencia))
**10455 BRIAR FOREST
 SITE 130 - 160**

CITY (CIUDAD) HOUSTON	STATE (ESTADO) TX	ZIP (ZONA POSTAL) 77042	CITY (CIUDAD) HOUSTON	STATE (ESTADO) TX	ZIP (ZONA POSTAL) 77042
---------------------------------	-----------------------------	-----------------------------------	---------------------------------	-----------------------------	-----------------------------------

OCCUPATION (Do not leave blank)
 (EMPLEO) (No lo deje en blanco)
DIVISION MANAGER

DATE OF BIRTH
 (FECHA DE NACIMIENTO)
08-31-1959

COUNTY OF RESIDENCE
 (CONDADO DE RESIDENCIA)
HARRIS

TELEPHONE NUMBER (Include area code) (Optional)
 (NUMERO DE TELEFONO-Incluya el código de la área) (Facultativo)
 OFFICE: **713 480 7788**
 (DE SU OFICINA:)

HOME: **713 781 9677**
 (DE SU DOMICILIO:)

Length of Continuous Residence as of Date Application Sworn
 (Tiempo en que ha Residido en un Solo Lugar en la Fecha en que Prestó Juramento Sobre la Solicitud)

IN STATE (EN EL ESTADO) 50yr(s) 4 mos (año(s) (mes(es))	IN COUNTY (EN EL CONDADO) 42yr(s) 7 mos (año(s) (mes(es))	IN DISTRICT OR PRECINCT (EN EL DISTRITO O PRECINTO) 42yr(s) 7 mos (año(s) (mes(es))
---	---	---

If using a nickname as part of your name to appear on the ballot, you are also signing and swearing to the following statements: I further swear that my nickname does not constitute a slogan nor does it indicate a political, economic, social, or religious view or affiliation. I have been commonly known by this nickname for at least three years prior to this election. Para poder incluir un apodo como parte de su nombre completo el la papeleta, Ud.debera firmar la siguiente constancia: Ademas, juro que se me ha conocido por este apodo por mas de tres años. Ademas, juro que el apodo no es un lema politico ni una indicacion de mis creencias o afiliaciones políticas, económicas, sociales, o religiosas.

Before me, the undersigned authority, on this day personally appeared (name) **STEVE DORMAN**, who being by me here and now duly sworn, upon oath says: "I, (name) **STEVE DORMAN**, of **HARRIS** County, Texas, being a candidate for the office of **HARRIS COUNTY DISTRICT CLERK**, swear that I will support and defend the Constitution and laws of the United States and of the State of Texas. I am a citizen of the United States eligible to hold such office under the Constitution and laws of this state. I have not been finally convicted of a felony for which I have not been pardoned or had my full rights of citizenship restored by other official action. I have not been determined by a final judgment of a court exercising probate jurisdiction to be totally mentally incapacitated or partially mentally incapacitated without the right to vote. I am aware of the nepotism law, Chapter 573, Government Code.

I further swear that the foregoing statements included in my application are in all things true and correct."
 (Ante mí, la autoridad, suscrita apareció en persona _____, quien habiendo aquí y ahora prestado juramento debido, bajo juramento dice: "Yo, _____ del condado de _____, Texas, siendo candidato para el puesto oficial de _____ solemnemente juro que apoyaré y defenderé la Constitución y las leyes de los Estados Unidos y del Estado de Texas. Soy ciudadano de los Estados Unidos elegible para ocupar tal puesto oficial bajo la Constitución y las leyes de este Estado. No me han determinado por un juicio final de una corte de la legalización de un testamento, ser totalmente incapacitado mentalmente o parcialmente incapacitado sin el derecho de votar, ni he sido probado culpable finalmente de una felonía por la cual no he sido perdonado o por la cual no se me han restituido enteramente mis derechos de ciudadanía por medio de otra acción oficial. Yo tengo conocimiento de la ley sobre el nepotismo según el capítulo 573 de Código Gobierno.

Además juro que las precedents declaraciones que incluyo en mi solicitud son verdaderas y están correctas en todos sentidos.")

X Steve Dorman
 SIGNATURE OF CANDIDATE (FIRMA DEL CANDIDATO)

Sworn to and subscribed before me at **5:54**, this the **4th** day of **January**, **2010**.
 (Jurado y suscrito ante mí en _____, este día _____ de _____, _____, _____, 2010.)

D. Alicia Flores
 Signature of Officer administering oath

Notary
 Title of Officer administering oath

DIANE LUCIA FLORES
 Notary Public, State of Texas
 My Commission Expires
June 02, 2010

FILED

Loren Jackson
District Clerk

JAN 07 2010

Affidavit

Time: _____
Harris County, Texas

BEFORE ME, the undersigned authority, on this day personally ~~appeared~~ CHRIS DANIEL

DANIEL, who swore on oath that the following facts are true:

"I am the Plaintiff in this cause. I have personal knowledge of the facts stated above, and they are true and correct, Steve Dorman filed for re-election, as a candidate for Precinct Chair in the Harris County Republican Primary scheduled for March 2, 2010, for Harris County Republican Precinct 130 at 3:13pm on October 20, 2009. At 5:52 pm on January 4, 2010, Steve Dorman submitted paperwork to withdraw from running for Republican Precinct Chair, is said election. At 5:54pm on January 4, 2010, Steve Dorman submitted paperwork to file for Harris County District Clerk. Pursuant to § 141.033 of the Texas Election Code, A candidate may not file applications for a place on the ballot for two or more offices that: are not permitted by law to be held by the same person; and are to be voted on at one or more elections held on the same day. If a person files more than one application for a place on a ballot in violation of this section, each application filed subsequent to the first one filed is invalid..

This violation of the Texas Election Code will cause irreparable harm to me unless Temporary Restraining Order and Injunction is issued .."

CHRIS DANIEL
Affiant

SIGNED under oath before me on 1/7/10

Notary Public, State of Texas