

Martinez, Ruben

From: Martin Enriquezmarquez <.....>
Sent: Thursday, December 02, 2021 5:49 PM
To: PublicComment-AutoResponse; cityclerk
Subject: 5B. Riverside M of Agreement
Attachments: riverside_moa2.pdf

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5B. Riverside M of Agreement

Martin

2 December 2021

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (the "Agreement"), effective this 21st day of January 2010, is entered into by and between the United States of America (the "United States") and the County of Riverside, California (the "County"), the Riverside County Registrar of Voters (the "Registrar"), in her official capacity, and the Riverside County Board of Supervisors (the "Board").

On June 17, 2009, the United States informed the County by letter of its intent to file a Complaint pursuant to Section 203 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973aa-1a ("Section 203"). The Federal District Court for the Central District of California has jurisdiction to enforce the provisions of Section 203 in the County, and the Federal Court would have jurisdiction of an action brought by the United States to enforce any of the terms of this Agreement pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. §§ 1973j(d) & (f) and 1973aa-2. The cause of action under Section 203 must be heard and determined by a court of three judges pursuant to 42 U.S.C. § 1973aa-2 and 28 U.S.C. § 2284.

The County has been subject to the requirements of Section 203 with respect to Spanish language since 1992. See 42 U.S.C. § 1973aa-1a(b)(2); 57 Fed. Reg. 43,213 (Sept. 18, 1992); 67 Fed. Reg. 48,871 (July 26, 2002). The Census Bureau designated Riverside County for Spanish under Section 203 in 1975, see 40 Fed. Reg. 41,827 (Sept. 9, 1975), but the County was not designated under Section 203 in 1984, see 49 Fed. Reg. 25,887 (June 25, 1984). Since 2002, the Department of Justice has directly notified Riverside County election officials of the County's obligations under Section 203.

In the most recent determination of coverage in 2002, the Director of the Census determined that more than 10,000 of Riverside's voting age citizens are members of a single language minority group (Spanish heritage or Hispanic), are limited English proficient, and have an illiteracy rate higher than the national illiteracy rate. See 67 Fed. Reg. 48,871 (July 26, 2002). The determination of the Census Bureau that Riverside County is covered by Section 203 for Spanish is final and non-reviewable. See 42 U.S.C. § 1973aa-1a(b)(4).

As of the 2000 Census, the County's voting age limited English proficient population was 49,495. The County had a total population of 1,545,385 persons, of whom 559,330 (36.2%) were Hispanic. The County also had a citizen voting

age population of 918,775 of whom 204,215 (22.2%) were Hispanic.

The United States alleges in its Complaint that the County has not complied with the requirements of Section 203 for Spanish speaking citizens residing in the County. Specifically, the United States alleges that the County has failed to provide an adequate number of bilingual poll workers trained to assist Spanish speaking voters on Election Day and to provide in an effective manner certain election-related information to Spanish speaking voters.

The County does not admit liability for the allegations in the Complaint and disputes that it is not in compliance with Section 203. The County is committed to comply fully with all Section 203 requirements in all future elections and asserts that it has also complied in the past. The County, in the spirit of cooperation, stipulates to the provisions of this Agreement.

To avoid protracted and costly litigation, the parties have agreed that this dispute should be resolved through the terms of this Agreement. Accordingly, the United States and the County hereby agree to the terms of this Agreement, as indicated by the signatures of counsel at the end of this Agreement. Each party shall bear its own costs and fees.

Accordingly, it is hereby AGREED that:

1. The County, its agents, employees, contractors, successors, and all other persons representing the interests of the County hereby agree to provide in Spanish any "registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots" that they provide in English, as required by Section 203 of the Voting Rights Act.
2. The terms of this Agreement apply to all Federal, State, and local elections that are administered by the County. Whenever the County enters into an election services contract with any other entity, political subdivision, or political party to conduct an election on behalf of that entity, the County shall require such entity to agree to abide by the terms of this Agreement as if such entity were a party to this Agreement with the United States, and consistent with the responsibility of each entity to comply fully with Section 203.

Translation and Dissemination of Election-Related Materials

3. All information that is disseminated by the County in English about "registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots," 42 U.S.C. § 1973b(f)(4), shall be provided in the Spanish language, including information on the Registrar's website. The County alleges that this has been and will continue to be its practice.

4. The County shall make every effort to ensure that all Spanish language election information, materials, and announcements are made equally available and provided to the same extent as they are provided in English. The County alleges that this has been and will continue to be its practice. Spanish language information shall be distributed in newspapers, radio, the Internet, and other media that exclusively or regularly publish or broadcast information in Spanish to the local population. The County shall consult with the Community Outreach Group, discussed below, to ensure that dissemination of these Spanish language announcements shall be in the form, frequency, and media best calculated to achieve notice and understanding equal to that provided to the English speaking population and to provide substantially the same information.

5. The Sample Ballot and Informational Pamphlet ("sample ballot") shall be sent in Spanish to voters who request such materials. The County shall increase the size and prominence of information on how to receive the Spanish sample ballot on the cover of the English sample ballot. Effective within 60 days of the signing of this Agreement, the County shall mail bilingual "notice" cards to all registered voters within the County who have thus far not requested minority language materials and who were born in Spanish-speaking countries, subject to agreement by the United States with the form and content of such a "notice" card. The "notice" cards shall inform such voters of their opportunity to receive election information in a minority language. The "notice" cards shall also inform minority language voters of their ability to serve as a bilingual poll worker and to participate in the Community Outreach Group, discussed below. The County shall send out additional "notice" cards to all new registered voters born in a Spanish speaking country as the registrations are received. The County shall develop a program in conjunction with the recommendations of the Community Outreach Group to ensure that Spanish-speaking voters are aware of the availability of and receive minority language materials.

Spanish Language Assistance

6. The County shall ensure that Spanish language assistance shall be available at all locations where election-related transactions are conducted. The County alleges that this has been and will continue to be its practice. Trained bilingual (fluent in both Spanish and English) election personnel shall be available to answer voting-related questions by telephone without cost during normal business hours and while the polls are open on election days, including during early voting. The County alleges that this has been and will continue to be its practice. The County may coordinate the provision of such services with other governmental or non-governmental entities that conduct elections.

7. The County shall recruit, hire, train, and assign poll workers able to understand, speak, write, and read Spanish fluently to provide effective assistance to Spanish speaking voters at the polls on election days and during early voting. The County alleges that this has been and will continue to be its practice.

8. Riverside County shall survey its employees to identify personnel who speak Spanish fluently and, to the extent such employees can be made available to provide assistance, allow and encourage such employees to serve at the polls on Election Day. The County alleges that this has been and will continue to be its practice. The County shall request that cities, school districts, and other entities that are involved in conducting elections in Riverside County perform similar surveys of their employees. The County shall also request that each school district or other educational entity within the County devise and implement a program that allows and encourages bilingual students selected (as permitted by State law and as part of an educational program devised by such district) to serve as poll workers on Election Day for all County elections, including election days that fall on school days, with such students receiving all pay and benefits provided by law for such poll workers. In the event that there is difficulty obtaining sufficient bilingual personnel, the County shall advise counsel for the United States of any entity that does not participate fully.

9. The County shall invite eligible members of the Community Outreach Group, discussed below, to serve as poll workers and to encourage other bilingual voters to do so.

10. In addition to any requirements of State law,
 - a. any election precinct in which there are 100-249 registered voters with Spanish surnames shall be staffed by at least one bilingual poll worker;
 - b. any election precinct in which there are 250-499 registered voters with Spanish surnames shall be staffed by at least two bilingual poll workers;
 - c. any election precinct in which there are 500 or more registered voters with Spanish surnames shall be staffed by at least three bilingual poll workers; and
 - d. the County shall employ bilingual personnel, trained in Spanish language election terminology, who shall be on call and available to travel to a precinct insufficiently staffed by bilingual poll workers to provide any necessary assistance to any Spanish speaking voter.

The parties may by written agreement adjust these requirements in light of reliable information that the actual need for language assistance in a particular polling place is less or greater than these standards.

11. The County shall alert voters that Spanish-speaking poll workers are available to provide assistance, and shall make such poll workers available when voters choose these workers as their assistants of choice. The County alleges that this has been and will continue to be its practice.

12. Signs in both English and Spanish shall be posted prominently at all polling places stating that Spanish language assistance is available. At sites without bilingual staff, signs in both English and Spanish shall be posted that explain how voters can obtain Spanish language assistance.

Election Official Training

13. Prior to each election, in addition to any required State or County

training, the County shall train all poll workers and other election personnel present at the polls regarding the provisions of Section 203 of the Voting Rights Act, including the legal obligation and means to make Spanish language assistance and materials available to voters, and the requirement that poll workers avoid inappropriate comments and be respectful and courteous to all voters regardless of race, ethnicity, color, or language abilities.

14. In addition to the general training for poll workers, the County shall provide a Spanish/English election terminology glossary to all bilingual poll workers and train all bilingual poll workers on Spanish language voting instructions and other Section 203 election-related issues. The County shall maintain a record of which poll workers attend training sessions, including the time, location, and training personnel involved.

Response to Complaints About Poll Workers

15. The County, upon receipt of complaints by voters, whether oral or written, shall investigate expeditiously any allegations of poll worker discrimination against Spanish speaking and/or Hispanic voters in any election. The County alleges that this has been and will continue to be its practice. The results of the investigation(s) conducted by the County shall be reported to the United States within 45 days. Where there is credible evidence that a poll worker has engaged in inappropriate treatment of Spanish speaking or Hispanic voters, the County shall take appropriate action, including not allowing the person to serve as a poll worker.

Spanish Language Election Program Coordinator

16. The County shall designate an individual to coordinate the County's Spanish language election program ("the Coordinator") for all elections within the County. The County shall provide the Coordinator, within the confines of budgetary constraints, with support sufficient to meet the goals of the program. The Coordinator shall be able to understand, speak, write, and read fluently both Spanish and English. The Coordinator's responsibilities shall include coordination of the translation of ballots and other election information; development and oversight of Spanish publicity programs, including selection of appropriate Spanish language media for notices and announcements; training, recruitment, and assessment of Spanish language proficiency of bilingual poll workers and

interpreters; and managing other aspects of the program.

Community Outreach Group

17. The Registrar shall establish a Community Outreach Group, chaired by the Coordinator, to assist and inform the Spanish language election program. The Community Outreach Group shall be open to any interested person or organization and shall meet at least quarterly in 2010, and as the Community Outreach Group determines is necessary thereafter. The Coordinator shall provide notice of all planned meetings, including the date, time, location, and agenda, at least 14 days in advance of such meeting, although members of the Community Outreach Group may agree to waive or shorten this time period as necessary. The Community Outreach Group shall meet at least once per month beginning four months before every polling place election, continuing until one month after the election, and at least once four months before every mail ballot election, as well as once one month after the election.

18. Within five business days after each meeting, the Coordinator shall provide a written summary of the discussion and any decisions reached at the meeting to all Community Outreach Group members and to the Registrar. If the Registrar decides not to implement a Community Outreach Group suggestion or a consensus cannot be reached respecting such suggestion, the Registrar shall provide to the Community Outreach Group through the Coordinator, and maintain on file, a written statement of the reasons for rejecting such suggestion. The County shall maintain a roster of Community Outreach Group members and interested members of the public who attend a Community Outreach Group meeting. The County shall maintain a log of the public who request to receive future notices together with the telephone and facsimile numbers or e-mail addresses of each, and shall provide to each interested party notices it provides to the Community Outreach Group.

19. The County shall transmit to all members of the Community Outreach Group, in English and Spanish, all election information, announcements, and notices that are provided or made available to the electorate and general public, with the exception of materials that are not reasonably transmittable either in hard copy or in electronic format, and request that they share such information with others.

Federal Observers

20. To assist in monitoring compliance with and ensure the effectiveness of this Agreement, and to protect the Fourteenth and Fifteenth Amendment rights of the citizens of Riverside County, the United States and the County shall move for a Stipulated Order, in the form attached hereto, to be filed simultaneously with the Complaint authorizing the appointment of federal observers for Riverside County pursuant to Section 3(a) of the Voting Rights Act, 42 U.S.C. § 1973a(a), for the duration of this Agreement. Both parties agree to take all reasonable measures as may be necessary to ensure that the Stipulated Order, or one like it in substance and to the same effect but modified as the Court shall see fit, is issued. There will be no costs to the County of Riverside for the federal observers.

21. The County shall recognize the authority of federal observers to observe all aspects of voting conducted in the polls on Election Day, including the authority to view County personnel providing assistance to voters during voting, except where the voter objects.

Evaluation of Plan

22. The parties recognize that regular and ongoing reassessment may be necessary to provide the most effective and efficient Spanish language program and to ensure compliance with the Voting Rights Act. The County shall evaluate the Spanish language election program after each election to determine which aspects of the program are functioning well; whether any aspects need improvement; and how to affect needed improvements. The County also shall evaluate its program to ensure that each polling place is in compliance with the Voting Rights Act. The program may be adjusted at any time upon joint written agreement of the parties.

Retention of Documents and Reporting Requirements

23. Throughout the duration of this Agreement, the County shall make and maintain written records of all actions taken pursuant to this Agreement. Such written documents and records shall be made available, upon request with reasonable notice, to the United States.

24. Throughout the duration of this Agreement, at least 30 days before each County-administered election, the County shall provide to counsel for the United States:

- (a) the name, address, and precinct designation of each polling place;
- (b) the name and title of each poll worker appointed and assigned to serve at each precinct;
- (c) a designation of whether each poll worker is fluent in English and another language, and an indication of what other languages are spoken by each poll worker;
- (d) an electronic copy of the final, official voter registration list to be used in each such election; and
- (e) copies of any signs or other written information provided at polling places.

Within 30 days after each such election, the County shall provide to counsel for the United States any updated report regarding changes in these items as well as information about all complaints the County received at the election regarding language or assistance issues, by Federal Express or electronically to the following address:

Voting Section
United States Department of Justice
Civil Rights Division
1800 G Street, N.W., Room NWB-7254
Washington, D.C. 20006
Facsimile: (202) 307-3961
amanda.gregory@usdoj.gov

Other Provisions

25. This Agreement is final and binding between the parties and their successors in office regarding the claims raised in this action. It shall remain in effect through March 31, 2013.

26. Nothing in this Agreement shall affect the Federal Court's jurisdiction over any action to enforce the terms of this Agreement or any other action to ensure compliance with Section 203 of the Voting Rights Act. Nothing in this Agreement shall constitute an admission by the United States or the County regarding the state of the County's bilingual election program or whether the County was liable under Section 203 due to alleged deficiencies in its bilingual election program.

Agreed to this 26 day of January, 2010.

AGREED TO:


ERIC H. HOLDER JR.
Attorney General


JEFFREY STONE
Chairman of the Board
County of Riverside

THOMAS E. PEREZ
Assistant Attorney General
Civil Rights Division


GEORGE S. CARDONA
Acting United States Attorney
MICHELE C. MARCHAND (#93390)
Assistant United States Attorney



FORM APPROVED COUNTY COUNSEL
BY:  1/26/2010
DATE


T. CHRISTIAN HERREN JR.
ROBERT POPPER
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Voting Section
Civil Rights Division
United States Department of Justice
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NWB Room 7254
Washington, D.C. 20530
Telephone: (202) 305-0827
Facsimile: (202) 307-3961
amanda.gregory@usdoj.gov

ATTEST:
KECIA HARPER-IHEM, Clerk of the Board

by: 
Deputy

Martinez, Ruben

From: Martin Enriquezmarquez <[REDACTED]>
Sent: Thursday, December 02, 2021 5:52 PM
To: cityclerk; PublicComment-AutoResponse
Subject: 6A. Ventura County Complaint
Attachments: ventura_comp_0.pdf

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6A. Ventura County Complaint

Martin

2 December 2021

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3 MICHELE C. MARCHAND
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4 United States Courthouse
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5 Los Angeles, California 90012
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7 JOSEPH D. RICH, Chief
JOHN TANNER, Special Counsel
8 JOHN "BERT" RUSS, Trial Attorney (#192471)
Voting Section
9 Civil Rights Division
United States Department of Justice
10 950 Pennsylvania Ave., N.W. - NWB-7254
Washington, D.C. 20530
11 Telephone: (202) 353-7738
Facsimile: (202) 307-3961

12 Counsel for Plaintiff
13 United States of America

14 IN THE UNITED STATES DISTRICT COURT
15 FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

CV04-6443 CAS VBKx

16 UNITED STATES OF AMERICA,) No. CV
17)
Plaintiff,) THREE-JUDGE COURT
18)
v.) COMPLAINT
19)
VENTURA COUNTY, CALIFORNIA;)
20 PHIL SCHMIT, the COUNTY CLERK)
& RECORDER, in his official)
21 capacity; and the VENTURA)
COUNTY BOARD OF SUPERVISORS,)
22)
Defendants.)
23)

24 The United States of America, Plaintiff herein, alleges:

25 1. The Attorney General files this action pursuant to
26 Section 203 of the Voting Rights Act of 1965 ("Section 203"), as
27 amended, 42 U.S.C. § 1973aa-1a; 42 U.S.C. § 1973aa-2; and
28 28 U.S.C. § 2201.

1 2. Jurisdiction: The Court has jurisdiction of this
2 action pursuant to 28 U.S.C. § 1345 and 42 U.S.C. § 1973aa-2.
3 In accordance with the provisions of 42 U.S.C. § 1973aa-2 and 28
4 U.S.C. § 2284, the Section 203 claim must be heard and
5 determined by a court of three judges. The events relevant to
6 this action occurred in Ventura County, which is located in the
7 United States District Court for the Central District of
8 California.

9 3. Defendant Ventura COUNTY is a political and
10 geographical subdivision of the State of California.

11 4. Defendant PHIL SCHMIT is the County Clerk & Recorder
12 of Ventura County. In this capacity as county clerk, Defendant
13 Schmit has responsibilities concerning the administration of
14 voting and elections in Ventura County. Defendant Schmit is a
15 resident of Ventura County, and is sued in his official
16 capacity.

17 5. Defendant Ventura COUNTY BOARD OF SUPERVISORS is the
18 primary budgetary authority for the county and for the County
19 Clerk & Recorder of Ventura County.

20 6. According to the 2000 Census, Ventura County had a
21 total population of 753,195 persons, of whom 251,965 (33.5%)
22 were Hispanic persons; and a total citizen voting-age population
23 of 458,420 persons, of whom 96,780 (21.1%) were Hispanic
24 persons.

25 7. According to the 2000 Census, 24,505 Hispanic voting-
26 age citizens in Ventura County were limited English proficient
27 ("LEP").
28

1 8. Ventura County is subject to the requirements of
2 Section 203 for the Spanish language, pursuant to the
3 designation by the Director of the Census. The Director has
4 determined that more than 10,000 of Ventura County's voting-age
5 citizens are members of a single language minority group
6 (Spanish heritage or Hispanic) who do not speak or understand
7 English well enough to participate in the English-language
8 election process and have an illiteracy rate that is higher than
9 the national illiteracy rate. See 42 U.S.C. § 1973aa-1a(b)(2);
10 see also 67 Fed. Reg. 48,871 (July 26, 2002). The determination
11 of the Census Bureau that Ventura County is covered by Section
12 203 for Spanish language is final and non-reviewable. See 42
13 U.S.C. § 1973aa-1a(b)(4).

14 9. Ventura County has been continuously covered under
15 Section 203 to provide bilingual elections in Spanish since
16 September 18, 1992. See 57 Fed. Reg. 43,213 (Sept. 18, 1992);
17 67 Fed. Reg. 48,871 (July 26, 2002). The Department has
18 directly notified election officials, including Ventura County
19 election officials, in all covered jurisdictions and has
20 provided information regarding the requirements of Section 203.

21 10. Because Ventura County is subject to the requirements
22 of Section 203, "any registration or voting notices, forms,
23 instructions, assistance, or other materials or information
24 relating to the electoral process, including ballots" that
25 Defendants provide in English must also be furnished in Spanish
26 to Spanish-speaking voters. 42 U.S.C. § 1973aa-1a(c).

1 CAUSE OF ACTION

2 11. Defendants have not provided election-related
3 materials, information, and/or assistance in Spanish to limited
4 English proficient Hispanic citizens as required by Section 203
5 of the Voting Rights Act, including, but not limited to, the
6 following:

7 a. failing to recruit, appoint, train, and maintain
8 an adequate pool of bilingual poll officials capable of
9 providing Hispanic citizens with limited English proficiency
10 language assistance;

11 b. failing to translate into Spanish the official
12 ballot, and all election-related announcements, instructions,
13 and notices at election sites;

14 c. failing to translate into Spanish all election-
15 related information, including but not limited to information
16 contained in legal notices publicizing elections and materials
17 available to the general public on the Internet website of the
18 Elections Division of the County Clerk & Recorder's office.

19 12. Defendants' failure to provide Spanish-speaking
20 citizens of Ventura County with Spanish-language election
21 information and assistance, as described above, constitutes a
22 violation of Section 203.

23 13. Unless enjoined by this Court, Defendants will
24 continue to violate Section 203 by failing to provide Spanish-
25 speaking citizens of Ventura County with Spanish-language
26 election information and assistance necessary for their
27 political participation.

28

1 PRAYER FOR RELIEF

2 WHEREFORE, Plaintiff the United States of America prays that
3 this Court enter an order:

- 4 (1) Declaring that Defendants have failed to provide
5 election information and assistance necessary to those
6 who require it in Spanish in violation of Section 203
7 of the Voting Rights Act, 42 U.S.C. § 1973aa-1a;
- 8 (2) Enjoining Defendants, their employees, agents, and
9 successors in office, and all persons acting in
10 concert with them, from failing to provide Spanish-
11 language election information and assistance to
12 persons with limited English proficiency as required
13 by Section 203, 42 U.S.C. § 1973aa-1a;
- 14 (3) Requiring Defendants to devise and implement a
15 remedial plan to ensure that Spanish-speaking citizens
16 with limited English proficiency are able to
17 participate in all phases of the electoral process as
18 required by Section 203 of the Voting Rights Act, 42
19 U.S.C. § 1973aa-1a;
- 20 (4) Requiring the Defendants to publicize the remedial
21 plans and programs addressing violations of Section
22 203 of the Voting Rights Act to ensure their
23 widespread dissemination to Ventura County's voters;
24 and
- 25 (5) Authorizing the appointment of federal examiners for
26 elections held in Ventura County pursuant to Section
27 3(a) of the Voting Rights Act, 42 U.S.C. § 1973a(a),
28 through August 1, 2007.

1 Plaintiff further prays that this Court order such
2 additional relief as the interests of justice may require,
3 together with the costs and disbursements in maintaining this
4 action.

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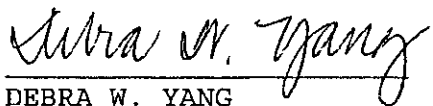
1 Date: 4th day of August, 2004

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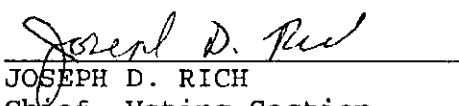
JOHN D. ASHCROFT
Attorney General



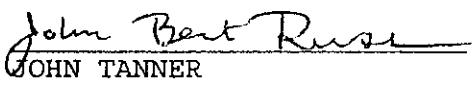
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Assistant Attorney General
Civil Rights Division



DEBRA W. YANG
United States Attorney



JOSEPH D. RICH
Chief, Voting Section



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 JOHN TANNER, Special Counsel
 8 JOHN "BERT" RUSS, Trial Attorney (#192471)
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 United States Department of Justice
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 Washington, D.C. 20530
 11 Telephone: (202) 353-7738
 Facsimile: (202) 307-3961

12
 13 Counsel for Plaintiff
 United States of America

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 RECEIVED
 CIVIL RIGHTS DIVISION
 U.S. DEPARTMENT OF JUSTICE

14 IN THE UNITED STATES DISTRICT COURT
 15 FOR THE CENTRAL DISTRICT OF CALIFORNIA
 WESTERN DIVISION

CV 04-6443 CAS VBKx

| | | |
|----------------------------------|---|-------------------|
| 16 UNITED STATES OF AMERICA, |) | No. CV |
| 17 |) | |
| Plaintiff, |) | THREE-JUDGE COURT |
| 18 |) | |
| v. |) | <u>COMPLAINT</u> |
| 19 |) | |
| VENTURA COUNTY, CALIFORNIA; |) | |
| 20 PHIL SCHMIT, the COUNTY CLERK |) | |
| & RECORDER, in his official |) | |
| 21 capacity; and the VENTURA |) | |
| COUNTY BOARD OF SUPERVISORS, |) | |
| 22 |) | |
| Defendants. |) | |
| 23 |) | |

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24 persons.

25 7. According to the 2000 Census, 24,505 Hispanic voting-
26 age citizens in Ventura County were limited English proficient
27 ("LEP").
28

1 8. Ventura County is subject to the requirements of
2 Section 203 for the Spanish language, pursuant to the
3 designation by the Director of the Census. The Director has
4 determined that more than 10,000 of Ventura County's voting-age
5 citizens are members of a single language minority group
6 (Spanish heritage or Hispanic) who do not speak or understand
7 English well enough to participate in the English-language
8 election process and have an illiteracy rate that is higher than
9 the national illiteracy rate. See 42 U.S.C. § 1973aa-1a(b)(2);
10 see also 67 Fed. Reg. 48,871 (July 26, 2002). The determination
11 of the Census Bureau that Ventura County is covered by Section
12 203 for Spanish language is final and non-reviewable. See 42
13 U.S.C. § 1973aa-1a(b)(4).

14 9. Ventura County has been continuously covered under
15 Section 203 to provide bilingual elections in Spanish since
16 September 18, 1992. See 57 Fed. Reg. 43,213 (Sept. 18, 1992);
17 67 Fed. Reg. 48,871 (July 26, 2002). The Department has
18 directly notified election officials, including Ventura County
19 election officials, in all covered jurisdictions and has
20 provided information regarding the requirements of Section 203.

21 10. Because Ventura County is subject to the requirements
22 of Section 203, "any registration or voting notices, forms,
23 instructions, assistance, or other materials or information
24 relating to the electoral process, including ballots" that
25 Defendants provide in English must also be furnished in Spanish
26 to Spanish-speaking voters. 42 U.S.C. § 1973aa-1a(c).

1 CAUSE OF ACTION

2 11. Defendants have not provided election-related
3 materials, information, and/or assistance in Spanish to limited
4 English proficient Hispanic citizens as required by Section 203
5 of the Voting Rights Act, including, but not limited to, the
6 following:

7 a. failing to recruit, appoint, train, and maintain
8 an adequate pool of bilingual poll officials capable of
9 providing Hispanic citizens with limited English proficiency
10 language assistance;

11 b. failing to translate into Spanish the official
12 ballot, and all election-related announcements, instructions,
13 and notices at election sites;

14 c. failing to translate into Spanish all election-
15 related information, including but not limited to information
16 contained in legal notices publicizing elections and materials
17 available to the general public on the Internet website of the
18 Elections Division of the County Clerk & Recorder's office.

19 12. Defendants' failure to provide Spanish-speaking
20 citizens of Ventura County with Spanish-language election
21 information and assistance, as described above, constitutes a
22 violation of Section 203.

23 13. Unless enjoined by this Court, Defendants will
24 continue to violate Section 203 by failing to provide Spanish-
25 speaking citizens of Ventura County with Spanish-language
26 election information and assistance necessary for their
27 political participation.

28

1 PRAYER FOR RELIEF

2 WHEREFORE, Plaintiff the United States of America prays that
3 this Court enter an order:

- 4 (1) Declaring that Defendants have failed to provide
5 election information and assistance necessary to those
6 who require it in Spanish in violation of Section 203
7 of the Voting Rights Act, 42 U.S.C. § 1973aa-1a;
- 8 (2) Enjoining Defendants, their employees, agents, and
9 successors in office, and all persons acting in
10 concert with them, from failing to provide Spanish-
11 language election information and assistance to
12 persons with limited English proficiency as required
13 by Section 203, 42 U.S.C. § 1973aa-1a;
- 14 (3) Requiring Defendants to devise and implement a
15 remedial plan to ensure that Spanish-speaking citizens
16 with limited English proficiency are able to
17 participate in all phases of the electoral process as
18 required by Section 203 of the Voting Rights Act, 42
19 U.S.C. § 1973aa-1a;
- 20 (4) Requiring the Defendants to publicize the remedial
21 plans and programs addressing violations of Section
22 203 of the Voting Rights Act to ensure their
23 widespread dissemination to Ventura County's voters;
24 and
- 25 (5) Authorizing the appointment of federal examiners for
26 elections held in Ventura County pursuant to Section
27 3(a) of the Voting Rights Act, 42 U.S.C. § 1973a(a),
28 through August 1, 2007.


1 Plaintiff further prays that this Court order such
2 additional relief as the interests of justice may require,
3 together with the costs and disbursements in maintaining this
4 action.

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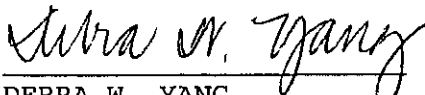
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JOHN D. ASHCROFT
Attorney General



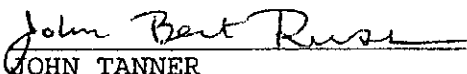
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(202) 353-7738

Martinez, Ruben

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Sent: Thursday, December 02, 2021 5:54 PM
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6B. Ventura County consent decree

Martin

2 December 2021

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2

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CENTRAL DISTRICT OF CALIFORNIA
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7 JOSEPH D. RICH, Chief
 JOHN TANNER, Special Counsel

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I HEREBY CERTIFY THAT THIS DOCUMENT WAS SERVED
 BY FAX DELIVERY ON PLAINTIFF/DEFENDANT (OR PARTIES)
 AT THEIR RESPECTIVE MOST RECENT FAX NUMBER OF RECORD
 IN THIS ACTION ON THIS DATE.

12 Counsel for Plaintiff
 13 United States of America

DATE: 9/2/04
Cynthia Salas

14 IN THE UNITED STATES DISTRICT COURT
 15 FOR THE CENTRAL DISTRICT OF CALIFORNIA
 16 WESTERN DIVISION

CV 04-6443 CAS VBA

17 UNITED STATES OF AMERICA,) No. CV
)
 18 Plaintiff,) THREE-JUDGE COURT
)
 19 v.) PROPOSED CONSENT DECREE, ORDER,
) AND JUDGMENT
)
 20 VENTURA COUNTY, CALIFORNIA;)
 21 PHIL SCHMIT, the COUNTY CLERK)
 & RECORDER, in his official)
 22 capacity; and the VENTURA)
 COUNTY BOARD OF SUPERVISORS,)
 23 Defendants.)

24 The United States of America filed this action pursuant to
 25 Section 203 of the Voting Rights Act of 1965 ("Section 203"), as
 26 amended, 42 U.S.C. § 1973aa-1a; 42 U.S.C. § 1973aa-2; and 28
 27 U.S.C. § 2201, over violations of Section 203 of the Voting
 28 Rights Act arising from Ventura County's election practices and

I HEREBY CERTIFY THAT THIS DOCUMENT WAS SERVED BY
 FIRST CLASS MAIL POSTAGE PREPAID, TO ALL COUNSEL
 (OR PARTIES) AT THEIR RESPECTIVE MOST RECENT ADDRESS OF
 RECORD IN THIS ACTION ON THIS DATE.

DATED: 9/2/04
Cynthia Salas
 DEPUTY CLERK

1 procedures as they affect Spanish-speaking citizens of the
2 County.

3 The Complaint's cause of action under Section 203 of the
4 Voting Rights Act, 42 U.S.C. § 1973aa-1a, must be heard and
5 determined by a court of three judges pursuant to 42 U.S.C.
6 § 1973aa-2 and 28 U.S.C. § 2284.

7 Ventura County has been subject to the requirements of
8 Section 203 of the Voting Rights Act, 42 U.S.C. § 1973aa-1a, for
9 the Spanish language since 1992. See 57 Fed. Reg. 43,213 (Sept.
10 18, 1992). In the most recent determination of coverage in
11 2002, the County's coverage was based on a determination by the
12 Director of the Census that more than 10,000 of the voting-age
13 citizens in the County are members of a single language minority
14 group (Spanish heritage or Hispanic) and are limited-English
15 proficient, and the illiteracy rate of these persons as a group
16 is higher than the national illiteracy rate. See 67 Fed. Reg.
17 48,871 (July 26, 2002). Since 1992, the Department has sent
18 Ventura County and other jurisdictions covered under Section 203
19 information regarding Section 203's requirements.

20 The Complaint states that Defendants have failed to comply
21 with the requirements of Section 203 for Spanish-speaking
22 citizens residing in Ventura County, California, by failing to
23 provide an adequate number of bilingual poll workers trained to
24 assist Spanish-speaking voters on election day, and by failing
25 to translate written election materials and information into
26 Spanish, including the official ballot, information posted on
27 the County Elections Division's website, and other materials.

28 To avoid protracted and costly litigation, the parties have

1 agreed that this lawsuit should be resolved through the terms of
2 this Consent Decree (hereinafter, the "Decree"). Accordingly,
3 the United States and Defendants hereby consent to the entry of
4 this Decree, as indicated by the signatures of counsel at the
5 end of this document. The parties waive a hearing and entry of
6 findings of fact and conclusions of law on all issues involved
7 in this matter.

8 Defendants are committed to comply fully with all of the
9 requirements of Section 203 in future elections and stipulate
10 that each provision of this Consent Decree is appropriate and
11 necessary.

12 Accordingly, it is hereby ORDERED, ADJUDGED, AND DECREED
13 that:

14 1. Defendants, their agents, employees, contractors,
15 successors, and all other persons representing the interests of
16 the Defendants are hereby PERMANENTLY ENJOINED from failing to
17 provide in Spanish any "registration or voting notices, forms,
18 instructions, assistance or other materials or information
19 relating to the electoral process, including ballots" that they
20 provide in English, as required by Section 203 of the Voting
21 Rights Act, as amended. 42 U.S.C. § 1973aa-1a(c). The terms of
22 this Decree apply to all federal, state, and local elections
23 administered by the County, including County-run elections for
24 city, school district, and other political subdivisions of the
25 County. Whenever Defendants enter into an election services
26 contract with any other entity, political subdivision, or
27 political party to conduct an election on behalf of that entity,
28 Defendants shall require such other entity to agree to abide by

1 the terms of this Decree as if such entity were a party to this
2 Decree with the United States, and consistent with the
3 responsibility of each such entity to comply fully with Section
4 203.

5 Translation of Election-Related Materials

6 2. All information that is disseminated by Ventura County
7 in English about "registration or voting notices, forms,
8 instructions, assistance, or other materials or information
9 relating to the electoral process, including ballots," 42 U.S.C.
10 § 1973aa-1a(c), shall also be provided in the Spanish language.
11 Defendants shall ensure that both English and Spanish language
12 election information, materials, and announcements provided by
13 Ventura County are made equally available.

14 3. Defendants shall employ trained and/or certified
15 translators who are familiar with Spanish-language election
16 terminology to produce all written translations, clearly and
17 accurately. The County shall develop and maintain a glossary of
18 Spanish election terminology in consultation with bilingual
19 members of local Hispanic community.

20 4. Defendants shall adopt a checklist identifying each
21 Spanish-language and bilingual material that the County makes
22 available to the public at each precinct. The checklist shall
23 include with respect to each item an attestation that the poll
24 workers at the precinct posted or made available to voters these
25 Spanish-language or bilingual materials, or a detailed written
26 explanation of why individual items had not been posted or were
27 not available. The inspectors for each precinct must complete
28 and sign this document before the inspector receives payment for

1 work in the election, subject to applicable state and federal
2 law. Defendants shall maintain a record of each such failure to
3 complete and sign the checklist.

4 Dissemination of Spanish-Language Information

5 5. Defendants shall ensure that Spanish-language
6 election information, materials, and announcements are provided
7 to the same extent as they are provided in English. Spanish-
8 language information shall be distributed in newspapers, radio,
9 and/or other media that exclusively or regularly publish or
10 broadcast information in Spanish. These announcements need not
11 be identical in all respect to English-language announcements,
12 but shall be in the form, frequency, and media best calculated
13 to achieve notice and understanding equal to that provided to
14 the English-speaking population and to provide substantially the
15 same information.

16 6. Subject to Paragraph 7 below, the official ballot and
17 absentee ballots shall be translated bilingually into both
18 English and Spanish. The new voting system that shall be
19 adopted by the County for all elections after November 2004
20 shall offer a bilingual ballot. Any electronic voting machines
21 adopted by the County shall offer Spanish-speaking voters the
22 readily apparent option of a Spanish ballot, and any audio
23 version of the ballot on such machines shall be available in
24 English and Spanish.

25 7. For the 2004 general election, the parties have
26 determined that, because of time constraints and unique
27 limitations of the County's software, which the County will be
28 replacing, bilingual ballots cannot be produced and provided

1 without unacceptable risk of disruption of the election.

2 Accordingly, consistent with the Attorney General's minority
3 language guidelines, the County shall do the following:

4 A. At each precinct, the County shall provide
5 officials ballots in Spanish. The number of Spanish-language
6 official ballots shall equal at least 200 percent of the number
7 of requests by voters for Spanish-language materials in that
8 precinct, provided that no precinct shall have fewer than 10
9 official ballots in Spanish. The County shall assure that such
10 Spanish-language official ballots are made visible and available
11 on an equal basis with English-language ballots. The parties
12 may by written agreement adjust the 200-percent requirement in
13 light of confirmed information that the actual language need in
14 a particular precinct is lesser or greater than this standard;

15 B. At each precinct, the County shall affix to the
16 inside of each voting booth sample ballot booklets, in English
17 and in Spanish, next to each other and at eye level. The County
18 shall henceforth post in each voting booth instructions in
19 Spanish on casting a ballot, using the identical size and layout
20 as the English instructions, to replace the County's previous
21 practice of posting pre-printed instructions in English only in
22 the voting booth.

23 C. The County shall publicize such procedures
24 according to a program devised in consultation with the Advisory
25 Group, discussed below. Such program shall include, among other
26 things, use of minority language media.

27 8. Sample ballots and other written materials mailed to
28 voters' homes shall be provided in Spanish to voters who have

1 requested or may request materials be mailed to them in Spanish.
 2 In addition, the County shall conduct an effective media
 3 campaign to inform Spanish-speaking voters of the ability to
 4 request Spanish-language materials be mailed to them at home.

5 To that end, the County shall do the following:

6 A. ^{Effective within five days of the date of this Order} ~~By August 24, 2004,~~ the County shall begin ^(cc)
 7 Spanish-language radio announcements at least every third day
 8 through November 1, 2004 on each Spanish-language radio station
 9 broadcasting in Ventura County regarding the opportunity to
 10 obtain Spanish versions of the sample ballot and instructions on
 11 how to sign up for such materials, including a phone number that
 12 is free of charge to voters and identifying locations where
 13 voters can obtain postage-prepaid return cards to mail in their
 14 request. These and other steps are necessary to correct
 15 existing deficiencies in the County's current list of persons
 16 who receive Spanish-language materials, which significantly
 17 undercounts the number of Spanish-speaking voters who are
 18 limited English proficient. The County may adjust this
 19 publicity schedule after consultation with the Advisory Group,
 20 discussed below, and by written agreement with the Department of
 21 Justice.

22 B. The County shall have Spanish-speaking staff
 23 available during business hours to answer inquiries by Spanish-
 24 speaking voters regarding this and other topics;

25 C. ^{effective within five days of the date of this Order} ~~By August 24, 2004,~~ the County shall ^(cc)
 26 affirmatively contact by telephone and in writing the president,
 27 chair, or equivalent of all identifiable Hispanic organizations
 28 in the County and organizations that serve Spanish-speaking

1 citizens, to inform these groups and solicit their assistance in
 2 contacting Spanish-speaking voters. *within five days of the date of this order, (see)*
 3 County shall also extensively distribute postage prepaid cards
 4 through Hispanic community groups and organizations serving
 5 Spanish-speaking citizens, to provide Spanish-speaking
 6 individuals with instructions on how to obtain Spanish-language
 7 materials at home.

8 D. By ~~August 31, 2004~~ *September 10, 2004*, the County shall also mail *(see)*
 9 these cards to all voters who were born in a Spanish-speaking
 10 country and have thus far not requested Spanish-language
 11 materials.

12 E. The County shall mail a Spanish-language sample
 13 ballot to any one who requests one, even if the voter had
 14 already received an English-language version.

15 F. Nothing in this Decree prevents the County from
 16 adopting a bilingual sample ballot booklet in English and in
 17 Spanish to be mailed to all voters in the County.

18 Information Required Under the Help America Vote Act

19 9. All information required to be posted in polling sites
 20 by Section 302 of the Help America Vote Act of 2002
 21 (hereinafter, "HAVA"), 42 U.S.C. § 15482, et seq., shall be
 22 posted at all polling sites and shall be in English and Spanish.
 23 This information includes, but is not limited to, written
 24 information given to the voter casting a provisional ballot on
 25 how they may ascertain if their provisional ballot was counted,
 26 and if not, the reason the ballot was not counted, see 42 U.S.C.
 27 § 15482(a) (5) (A), and the six categories of information required
 28 to be posted under 42 U.S.C. § 15482(b). For example,

1 Defendants must post a sample version of the ballot that will be
2 used for that election, in English and Spanish, in each polling
3 location. See 42 U.S.C. § 15482(b)(2)(A). Defendants shall
4 provide a free access system for informing voters about whether
5 their provisional ballot has been counted, and if it has been
6 rejected, the reason for the rejection. The information on this
7 system shall be available to each provisional voter in both
8 English and Spanish. See 42 U.S.C. § 15482(a)(5)(B).

9 Spanish-Language Assistance

10 10. Spanish-language assistance shall be available at all
11 locations where election-related transactions are conducted.
12 Trained bilingual (Spanish/English) election personnel shall be
13 available to answer voting-related questions by telephone
14 without cost and during normal business hours and while the
15 polls are open on election days.

16 11. Defendants shall recruit, hire, and assign election
17 officials able to understand, speak, read, and write Spanish
18 fluently to provide assistance to Spanish-speaking voters at the
19 polls on election days. The County shall survey its employees
20 to identify personnel who speak Spanish fluently and, to the
21 extent such employees can be made available to provide
22 assistance, allow and encourage such employees to serve at the
23 polls on election day. As part of its obligation to ensure that
24 entities on whose behalf the County conducts elections are fully
25 compliant with Section 203 in their elections, the County shall
26 request that each entity for which it conducts elections perform
27 similar surveys of its employees; the County shall request that
28 each school district or other educational entity with which the

1 County contracts implements a program that allows and encourages
2 selected bilingual students (as allowed by state law and as part
3 of an educational program devised by such district) to serve as
4 poll officials on election day for all County elections,
5 including election days that fall on school days, with such
6 students receiving academic credit appropriate to their service
7 as well as all pay and benefits of poll officials; and the
8 County shall request from such entities and maintain copies of
9 all election-related materials and information created or
10 disseminated by such entities for each election. The County
11 shall advise counsel for the United States of any entity that
12 does not participate fully. The County shall also invite
13 eligible members of the Advisory Group, discussed below, to
14 serve as poll officials and to encourage other bilingual voters
15 to do so.

16 12. Any consolidated precinct in which there are 100-249
17 registered voters with Spanish surnames shall be staffed by at
18 least one bilingual election official. Any consolidated
19 precinct in which there are 250-499 registered voters with
20 Spanish surnames shall be staffed by at least two bilingual
21 election officials. Any consolidated precinct in which there
22 are 500 or more registered voters with Spanish surnames shall be
23 staffed by at least three bilingual election officials. The
24 parties may by written agreement adjust this requirement in
25 light of confirmed information that the actual language need in
26 a particular precinct is lesser or greater than this standard.
27 Defendants shall employ bilingual personnel, trained in Spanish-
28 language election terminology, who shall be on call and

1 available to travel to a consolidated precinct not staffed by a
2 bilingual poll worker to provide any necessary assistance to any
3 Spanish-speaking voter. Defendants shall ensure that the
4 language needs of Spanish-speaking voters are met in precincts
5 that have less than 100 Spanish-surnamed voters and that have
6 voters who have requested Spanish-language materials or where
7 there is other reliable information of a need for Spanish-
8 language assistance.

9 13. Signs in both English and Spanish shall be posted
10 prominently at polling places stating that Spanish-language
11 assistance is available. At sites without bilingual staff,
12 signs in both English and Spanish shall be posted that explain
13 how voters can obtain Spanish-language assistance.

14 Election official training

15 14. Prior to each election, in addition to any required
16 state or County training, the County shall train all poll
17 officials and other election personnel present at the polls
18 regarding the following: The provisions of Section 203 of the
19 Voting Rights Act, including the legal obligation and means to
20 make Spanish-language assistance and materials available to
21 voters; the requirement that poll officials be respectful and
22 courteous to all voters regardless of race, ethnicity, color, or
23 language abilities and to avoid inappropriate comments; the
24 requirements of Section 302 of HAVA, 42 U.S.C. § 15482, as they
25 apply to elections for Federal office; and the requirements of
26 Section 208 of the Voting Rights Act of 1965, 42 U.S.C.
27 § 1973aa-6, regarding the rights of voters to the assistor of
28 their choice. In addition to the general training for poll

1 officials, the County shall train all bilingual poll officials
 2 on Spanish-language election terminology, voting instructions,
 3 and other election-related issues. The County shall maintain a
 4 record of which poll officials attend training sessions,
 5 including the time, location, and training personnel involved.

6 Response to Complaints About Poll Workers

7 15. Defendants, upon receipt of complaints by voters,
 8 whether oral or written, shall investigate expeditiously any
 9 allegations of poll worker hostility toward Spanish-speaking
 10 and/or Hispanic voters in any election. The results of the
 11 investigation(s) conducted by the Defendants shall be reported
 12 to the United States. Where there is credible evidence that
 13 poll workers have engaged in inappropriate treatment of Spanish-
 14 speaking and/or Hispanic voters, Defendants shall remove the
 15 poll workers.

16 Program Coordinator

17 16. The County shall employ an individual to coordinate
 18 the County's bilingual election Program ("the Coordinator") for
 19 all elections within the County. The County shall provide that
 20 individual with transportation and other support sufficient to
 21 meet the goals of the Program. The Coordinator shall be able to
 22 understand, speak, write, and read fluently both Spanish and
 23 English. The Coordinator's responsibilities shall include
 24 coordination of translation of ballots and other election
 25 information; development of a Spanish election glossary to
 26 ensure uniform use of election terminology in Spanish;
 27 development and oversight of Spanish publicity programs,
 28 including selection of appropriate Spanish-language media for

1 notices and announcements; recruitment and assessment of
2 Spanish-language proficiency of bilingual poll officials and
3 interpreters; and managing other aspects of the Program.

4 Advisory Group

5 17. The Coordinator shall establish and chair an Advisory
6 Group to assist and inform the bilingual Program. The
7 Coordinator shall invite participation from all interested
8 individuals and organizations that work with or serve the
9 Spanish-speaking community in Ventura County, to determine how
10 to effectively provide election materials, information, and
11 assistance to Spanish-speaking voters, and to fill any gaps in
12 public awareness about the County's bilingual election program
13 due to past failures to provide accessible election-related
14 information to Spanish-speaking voters. The Advisory Group
15 shall meet at least once a month in 2004, and as the group
16 determines in 2005-2007. The Coordinator shall provide notice
17 of all planned meetings to each member, including the time,
18 location, and agenda for the meeting, at least 14 days in
19 advance, although members of the Advisory Group may agree to
20 waive or shorten this time period as necessary. Within five
21 days following each meeting, the Coordinator shall provide a
22 written summary to all members and to the Assistant Registrar of
23 Voters of the discussion and any decisions reached at the
24 meeting. If the Assistant Registrar of Voters decides not to
25 implement an Advisory Group suggestion or a consensus cannot be
26 reached respecting such suggestion, he or she shall provide to
27 the group through the Coordinator and maintain on file a written
28 statement of the reasons for rejecting such suggestion.

1 18. The County shall transmit to all interested members of
2 the Advisory Group copies, in English and Spanish, of all
3 election information, announcements, and notices that are
4 provided to the electorate and general public and request that
5 they share with their members.

6 Federal Examiners and Observers

7 19. To monitor compliance with and ensure effectiveness of
8 this Decree, and to protect the Fourteenth Amendment rights of
9 the citizens of Ventura County, the appointment of a federal
10 examiner is authorized for Ventura County pursuant to Section
11 3(a) of the Voting Rights Act, 42 U.S.C. §1973a(a), through
12 August 1, 2007.

13 20. Defendants shall recognize the authority of federal
14 observers to observe all aspects of voting conducted in the
15 polls on election day, including the authority to view County
16 personnel providing assistance to voters during voting, except
17 where the voter objects.

18 Evaluation of plan

19 21. The parties recognize that regular and ongoing
20 reassessment may be necessary to provide the most effective and
21 efficient Spanish-language Program. Defendants shall evaluate
22 the bilingual Program after each election (e.g., following 2004
23 elections) to determine which aspects of the bilingual Program
24 are functioning well; whether any aspects need improvement; and
25 how to affect needed improvements. The Program may be adjusted
26 at any time upon joint written agreement of the parties.

27 Retention of Documents and Reporting Requirements

28 22. During the duration of this Decree, the County shall

1 make and maintain as public documents written records of
2 all actions taken pursuant to this Decree.

3 23. During the duration of this Decree, at least ten (10)
4 days before each County-administered election held in the
5 County, Defendants shall provide to counsel for the United
6 States, (a) the name, address, and precinct designation of each
7 consolidated precinct; (b) the name and title of each poll
8 official appointed and assigned to serve at each consolidated
9 precinct; (c) a designation of whether each poll official is
10 bilingual in English and Spanish; (d) copies of any signs or
11 other written information provided at polling places; and (e) an
12 electronic copy of the voter registration list to be used in
13 such elections. Within thirty (30) days after each election,
14 Defendants shall provide to counsel for the United States any
15 updated report regarding changes in items (a)-(d) above that
16 occurred at the election, and provide information about all
17 complaints the County received at the election regarding
18 language or assistance issues.

19 Other Provisions

20 24. This Decree is final and binding between the parties
21 and their successors in office regarding the claims raised in
22 this action. This Decree shall remain in effect through
23 August 1, 2007, and the United States may within 90 days of that
24 date move to extend the Decree for good cause shown, in the
25 event of a violation of any provision contained herein by the
26 County.

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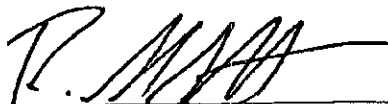
1 25. The Court shall retain jurisdiction of this case to
 2 enter further relief or such other orders as may be necessary
 3 for the effectuation of the terms of this agreement and to
 4 ensure compliance with Section 203 of the Voting Rights Act.

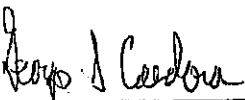
5 26. Each party shall bear its own costs and fees.

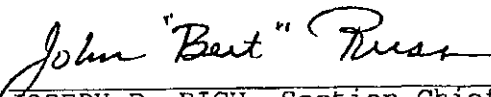
6
 7 Agreed to this 3rd day of August, 2004.

8
 9 AGREED AND CONSENTED TO:


10 For Plaintiff:
 11 UNITED STATES OF AMERICA

12 
 13 R. ALEXANDER ACOSTA
 14 Assistant Attorney General
 15 Civil Rights Division

16 
 17 GEORGE S. CARDONA
 18 Acting United States Attorney
 19 MICHELE C. MARCHAND
 20 Asst. United States Attorney

21 
 22 JOSEPH D. RICH, Section Chief
 23 JOHN TANNER, Special Litigation Counsel
 24 JOHN "BERT" RUSS, Trial Attorney
 25 Voting Section
 26 U.S. Department of Justice
 27 Civil Rights Division
 28 950 Pennsylvania Ave., N.W. - NWB-7254
 Washington, D.C. 20530

For Defendants:

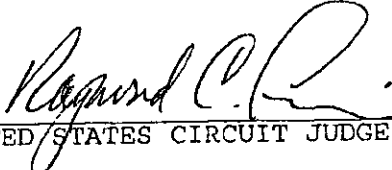

PHILIP J. SCHMIT
 County Clerk and Recorder
 County of Ventura
 Hall of Administration
 800 South Victoria Avenue
 Ventura, California 93009

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JUDGMENT AND ORDER

This three-judge Court, having been properly empaneled under 28 U.S.C. § 2284 and 42 U.S.C. § 1973aa-2 to consider the United States' claim under Section 203 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973aa-1a, and having determined that it has jurisdiction over this claim, has considered the terms of the Consent Decree, hereby enters the relief set forth above and incorporates those terms herein.

ENTERED and ORDERED this 2d day of September, 2004.


UNITED STATES CIRCUIT JUDGE


UNITED STATES DISTRICT JUDGE


UNITED STATES DISTRICT JUDGE

Martinez, Ruben

From: Martin Enriquezmarquez
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7A. Alameda County

Family resides here.

Martin

2 December 2021

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 9 United States Attorney
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 27 United States of America

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 U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION

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MEJ

IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION

33 UNITED STATES OF AMERICA,)
 34)
 35 Plaintiff,)
 36)
 37 v.)
 38 ALAMEDA COUNTY, CALIFORNIA;)
 39 DAVE MACDONALD,)
 40 REGISTRAR OF VOTERS, in his official)
 41 capacity; and the ALAMEDA COUNTY BOARD)
 42 OF SUPERVISORS,)
 43)
 44 Defendants.)
 45 _____)

Civil Action No. 11 3262

COMPLAINT
THREE-JUDGE COURT
REQUESTED

1 The United States of America, Plaintiff herein, alleges:

2 1. This is an action brought to enforce the minority language requirements of
3 Section 203 of the Voting Rights Act, 42 U.S.C. § 1973aa-1a, in order to secure voting rights
4 guaranteed by the Fourteenth and Fifteenth Amendments.

5 JURISDICTION

6 2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and
7 1345, the Voting Rights Act, 42 U.S.C. § 1973aa-2, and the Declaratory Judgment Act, 28
8 U.S.C. §§ 2201 and 2202.

9 THREE-JUDGE COURT

10 3. In accordance with 42 U.S.C. § 1973aa-2 and 28 U.S.C. § 2284, the claim under
11 Section 203 of the Voting Rights Act, 42 U.S.C. § 1973aa-1a, must be heard and determined by a
12 court of three judges.

13 VENUE AND INTRADISTRICT ASSIGNMENT

14 4. The events relevant to this action occurred in Alameda County, California, which
15 is located in the United States District Court for the Northern District of California. 28 U.S.C. §
16 84(a). Pursuant to Civil Local Rule 3-2(d), intradistrict assignment is proper in the San
17 Francisco Division or Oakland Division.

18 PARTIES

19 5. The Attorney General of the United States brings this action on behalf of plaintiff
20 UNITED STATES OF AMERICA. This action seeks declaratory and injunctive relief pursuant
21 to Sections 203 and 204 of the Voting Rights Act, 42 U.S.C. §§ 1973aa-1a and 1973aa-2, and
22 pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

23 6. Defendant ALAMEDA COUNTY (“the County”) is a political and geographical
24 subdivision of the State of California and exists under the laws of that State.

25 7. Defendant DAVE MACDONALD, the Alameda County Registrar of Voters, is
26 responsible for conducting County elections, including primary, general, special district, and

COMPLAINT

1 school district elections. Cal. Gov. Code § 26802. Defendant MACDONALD is sued in his
2 official capacity.

3 8. Defendant ALAMEDA COUNTY BOARD OF SUPERVISORS (“the Board”) is
4 the governing body of the County with general responsibility for the legislative policies and
5 administration of the County, including but not limited to the primary budgetary authority for the
6 County responsible for the County’s expenditure of funds. Cal. Gov. Code § 25252.

7 ALLEGATIONS

8 9. Section 203 of the Voting Rights Act requires that whenever a covered
9 jurisdiction provides “any registration or voting notices, forms, instructions, assistance, or other
10 materials or information relating to the electoral process, including ballots, it shall provide them
11 in the language of the applicable minority group as well as in the English language.” 42 U.S.C.
12 1973aa-1a(c). Section 203 contains a formula by which the Director of the Census makes
13 determinations based on census data as to which jurisdictions are covered by these requirements.
14 42 U.S.C. 1973aa-1a(b). These coverage determinations are final and non-reviewable. 42
15 U.S.C. § 1973aa-1a(b)(4).

16 10. Alameda County has been continuously covered by the requirements of Section
17 203, with respect to both Spanish language and Chinese language, since September 18, 1992. 57
18 Fed. Reg. 43,213 (Sept. 18, 1992); 67 Fed. Reg. 48,871 (July 26, 2002).

19 11. Since 1992, the Department of Justice has notified Alameda County election
20 officials regarding the minority election requirements of Section 203 of the Voting Rights Act on
21 numerous occasions.

22 12. On April 13, 1995, the United States filed a lawsuit in the United States District
23 Court for Northern District of California against Alameda County for failing to provide election
24 material and assistance in the Chinese language for limited-English proficient voters in violation
25 of Section 203. *United States v. Alameda County*, C95-1266 (N.D. Cal.). On January 22, 1996,
26 the Court entered a Settlement Agreement and Order, which, among other things, required the

COMPLAINT

1 County to provide Chinese language voting assistance and materials. The Settlement Agreement
2 and Order permanently enjoined Defendants from failing to comply with the requirements of
3 Sections 2 and 203 of the Voting Rights Act. The Settlement Agreement and Order expired on
4 December 31, 2000.

5 13. According to the 2000 Census, Alameda County had a total population of
6 1,443,741, of whom 273,887 (18.9%) were of Hispanic origin and 110,895 (7.6%) were of
7 Chinese origin. In 2000, the voting-age citizen population was 896,918, of whom 106,287
8 (11.9%) were of Hispanic origin and 62,154 (6.9%) were of Chinese origin. Of the voting-age
9 citizens of Hispanic origin, 22,010 (20.7%) were limited-English proficient, while 28,280
10 (45.5%) of the voting age citizens of Chinese origin were limited-English proficient.

11 14. The Hispanic and Chinese populations in Alameda County have grown.
12 According to the 2005-2009 American Community Survey 5-Year Estimates, Alameda County's
13 total population is 1,457,095, of whom 310,688 (21.3%) were of Hispanic origin and 128,891
14 (8.8%) were of Chinese origin. In 2005-2009, the voting-age citizen population was 919,099, of
15 whom 122,686 (13.3%) were of Hispanic origin.

16 CAUSE OF ACTION

17 15. The United States hereby alleges and incorporates by reference paragraphs one
18 through fourteen above.

19 16. Defendants have failed to provide effective election-related information and
20 assistance in Chinese to limited-English proficient voters as required by Section 203 in the
21 following ways:

- 22 a) Defendants have failed to recruit, appoint, train, and maintain an adequate
23 pool of Chinese-speaking bilingual poll officials capable of providing Chinese-speaking
24 voters with limited-English proficiency necessary and effective language assistance on
25 election day;

1 b) Defendants have also failed to translate and/or properly disseminate certain
2 election-related materials and information in Chinese prior to and during elections,
3 including but not limited to the ballot, voter registration forms, sample ballots, election
4 notices, and the website.

5 17. Defendants have failed to provide effective election-related information and
6 assistance in Spanish to limited-English proficient voters as required by Section 203 in the
7 following ways:

8 a) Defendants have failed to train and maintain an adequate pool of Spanish-
9 speaking bilingual poll officials capable of providing Spanish-speaking voters with
10 limited-English proficiency necessary and effective language assistance on election day;

11 b) Defendants have also failed to translate and/or properly disseminate certain
12 election-related materials and information in Spanish prior to and during elections,
13 including but not limited to the ballot, voter registration forms, sample ballots, election
14 notices, and the website.

15 18. Defendants' failure to provide limited-English proficient Spanish-speaking and
16 Chinese-speaking citizens of Alameda County with minority language election assistance,
17 materials, and information, as described above, constitutes a violation of Section 203.

18 19. Unless enjoined by this Court, Defendants will continue to violate Section 203 by
19 failing to provide limited-English proficient Spanish and Chinese-speaking citizens of Alameda
20 County with minority language election information and assistance necessary for their effective
21 political participation.

22 PRAYER FOR RELIEF

23 Wherefore, the United States of America prays that this Court enter an order:

- 24 (1) Declaring that Defendants have failed to provide Spanish language and
25 Chinese language election assistance, materials, and information to

COMPLAINT

1 limited-English proficient voters in violation of Section 203 of the Voting
2 Rights Act, 42 U.S.C. § 1973aa-1a;

3 (2) Enjoining Defendants, their employees, agents and successors in office,
4 and all persons acting in concert with them, from failing to provide
5 Spanish language and Chinese language election assistance, materials, and
6 information to voters with limited-English proficiency as required by
7 Section 203, 42 U.S.C. § 1973aa-1a;

8 (3) Ordering Defendants to devise and implement a remedial plan to ensure
9 that voters of Hispanic origin and voters of Chinese origin who are
10 limited-English proficient receive the bilingual assistance, materials, and
11 information they need to fully and effectively participate in the electoral
12 process as required by Section 203, 42 U.S.C. § 1973aa-1a;

13 (4) Authorizing the appointment of federal observers to observe elections held
14 in Alameda County pursuant to Section 3(a) of the Voting Rights Act, 42
15 U.S.C. § 1973a(a).

16 The United States further prays that this Court order such additional relief as the
17 interests of justice may require, together with the costs and disbursements in maintaining
18 this action.

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COMPLAINT

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Date: ____ day of _____, 2011

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Attorney General

THOMAS E. PEREZ
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MELINDA HAAG
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1 Date: 30th day of June 2011

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4 Attorney General

5
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8 THOMAS E. PEREZ
9 Assistant Attorney General
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11
12 attached

13
14 MELINDA HAAG
15 United States Attorney

16
17 


18 T. CHRISTIAN HERREN JR
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Date: ____ day of _____, 2011

ERIC H. HOLDER JR
Attorney General

THOMAS E. PEREZ
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COMPLAINT

Martinez, Ruben

From: Martin Enriquezmarquez <r
Sent: Thursday, December 02, 2021 6:03 PM
To: cityclerk; PublicComment-AutoResponse
Subject: 7B. Alameda County Consent Decree 2
Attachments: alameda_cd11_ro_tag.pdf

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7B. Alameda County Consent Decree 2

Martin

2 December 2021

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16 Counsel for Plaintiff
17 United States of America

18 IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
19 SAN FRANCISCO DIVISION

20 UNITED STATES OF AMERICA,)

No. C-11-3262 EMC-MMS-RS

21 Plaintiff,)

22 v.)

CONSENT DECREE, JUDGMENT,
and ORDER

23 ALAMEDA COUNTY, CALIFORNIA;)
DAVE MACDONALD, ALAMEDA COUNTY)
24 REGISTRAR OF VOTERS, in his official)
capacity; and the ALAMEDA COUNTY BOARD)
25 OF SUPERVISORS,)

Defendants.)

CONSENT DECREE

1 The United States of America filed this action pursuant to Section 203 of the Voting Rights Act,
2 42 U.S.C. § 1973aa-1a, and pursuant to 28 U.S.C. § 2201, to enforce voting rights guaranteed by
3 the Fourteenth and Fifteenth Amendments, with respect to the conduct of elections in Alameda
4 County, California.

5 The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1345 and
6 42 U.S.C. §§ 1973aa-2a. In accordance with 42 U.S.C. § 1973aa-2 and 28 U.S.C. § 2284, the
7 United States' Section 203 claim must be heard and determined by a court of three judges.

8 Alameda County is subject to Section 203 of the Voting Rights Act, which requires that
9 whenever any covered jurisdiction provides "any registration or voting notices, forms,
10 instructions, assistance, or other material or information relating to the electoral process,
11 including ballots, it shall provide them in the language of the applicable minority group as well
12 as in the English language." 42 U.S.C. 1973aa-1a. Alameda County has been continuously
13 covered by Section 203 since September 18, 1992, and is required by Section 203 to provide
14 Spanish language and Chinese language written voting material, information and assistance to
15 voters. 42 U.S.C. § 1973aa-1a(b)(2); 57 Fed. Reg. 43,213 (Sept. 18, 1992); 67 Fed. Reg. 48,871
16 (July 26, 2002).

17 According to the 2000 Census, Alameda County had a total population of 1,443,741, of
18 whom 273,887 (18.9%) were of Hispanic origin and 110,895 (7.6%) were of Chinese origin. In
19 2000, the voting-age citizen population was 896,918, of whom 106,287 (11.9%) were of
20 Hispanic origin and 62,154 (6.9%) were of Chinese origin. Of the voting-age citizens of
21 Hispanic origin, 22,010 (20.7%) were limited English proficient, while 28,280 (45.5%) of the
22 voting age citizens of Chinese origin were limited English proficient.

23 The Hispanic origin and Chinese origin populations in Alameda County have grown.
24 According to the 2005-2009 American Community Survey 5-Year Estimates, Alameda County's
25

1 total population is 1,457,095, of whom 310,688 (21.3%) were of Hispanic origin and 128,891
2 (8.8%) were of Chinese origin. In 2005-2009, the voting-age citizen population was 919,099, of
3 whom 122,686 (13.3%) were of Hispanic origin.

4 On April 13, 1995, the United States filed a lawsuit in the United States District Court for
5 the Northern District of California, against Alameda County for failing to provide election
6 material and assistance in Chinese for limited-English proficient voters in violation of Sections 2
7 and 203 of the Voting Rights Act. U.S. v. Alameda County, C95-1266 (N.D. Cal.). On January
8 22, 1996, the Court entered a Settlement Agreement and Order, which, among other things,
9 required the County to provide Chinese language assistance and materials to limited-English
10 proficient voters. *Id.* Further, the Settlement Agreement and Order permanently enjoined
11 defendants from failing to comply with the requirements of Sections 2 and 203 of the Voting
12 Rights Act.

13 The United States contends in this action that Alameda County has failed to implement
14 an effective minority language election program for Spanish-speaking voters and Chinese-
15 speaking voters in violation of Section 203 of the Voting Rights Act. The United States further
16 contends that Alameda County has failed to hire, train, and place qualified bilingual poll workers
17 in polling places with significant limited-English proficient Spanish-speaking and Chinese-
18 speaking voters. The United States also contends that Alameda County has also failed to
19 translate and disseminate all written election material and information into Spanish and Chinese,
20 including information published on its website.

21 Because Defendants are committed to complying fully with the Voting Rights Act and
22 the Parties wish to avoid protracted and costly litigation, Plaintiff United States of America and
23 Defendants Alameda County, California, Dave Macdonald, Registrar of Voters, in his official
24 capacity, and the Alameda County Board of Supervisors ("the Parties") have agreed that this
25

1 lawsuit should be resolved through the terms of this Consent Decree ("Decree"). Accordingly,
2 the Parties hereby consent to the entry of this Decree, as indicated by the signatures of counsel at
3 the end of this Order. Except as provided in this Decree, the Parties waive further hearings and
4 entry of findings of fact and conclusions of law on all issues involved in this matter. Each party
5 shall bear its own costs and fees.

6 Accordingly, it is hereby ORDERED, ADJUDGED, AND DECREED that:

7 1. Defendants, their agents, employees, contractors, successors, and all other persons
8 representing the interests of Defendants are hereby permanently enjoined from failing to provide
9 "any registration or voting notices, forms, instructions, assistance, or other materials or
10 information relating to the electoral process, including ballots" in "the language of the applicable
11 minority group," specifically, in the Spanish language and the Chinese language, "as well as in
12 the English language," as required by Section 203 of the Voting Rights Act, 42 U.S.C. 1973aa-
13 1a.

14 2. The terms of this Decree apply to all Federal, state, and local elections that are
15 administered by the County. Whenever Defendants enter into an election services contract with
16 any other entity, political subdivision, or political party to conduct an election on behalf of that
17 entity, Defendants shall require such entity to agree to abide by the terms of this Decree as if
18 such entity were a party to this Decree, and consistent with the responsibility of each entity to
19 comply fully with Section 203 of the Voting Rights Act.

20 **Translation and Dissemination of Election-Related Materials**

21 3. All information that is disseminated by Alameda County in English about
22 "registration or voting notices, forms, instructions, assistance, or other materials or information
23 relating to the electoral process, including ballots," 42 U.S.C. 1973aa-1a, shall also be provided
24 in the Spanish and Chinese languages.

1 4. Defendants shall utilize a certified translator to prepare translated materials. The
2 translator shall work in coordination with the bilingual election program Coordinator and the
3 Advisory Group described in paragraphs 24 - 26 to ensure that bilingual materials are complete,
4 accurate, linguistically competent and accessible for limited-English proficient voters. The
5 translated materials must include effective translations that most accurately convey the meaning
6 of the original English-language information.

7 5. Any voting system the County employs shall be multilingual, as described below.
8 If the County uses electronic voting machines, these machines shall offer the readily apparent
9 options of a Spanish ballot and Chinese ballot, and any audio version of the ballot on such
10 machines shall be available at least in English, Spanish, and Chinese. Any paper ballots the
11 County uses in English, including the official ballot, the provisional ballot, and the absentee
12 ballot, shall also be available in translated bilingually in English and Spanish, and English and
13 Chinese.

14 6. If there is a precinct with English, Spanish, and Chinese-speaking voters, then the
15 County shall ensure that both English and Spanish, and English and Chinese ballots are visible
16 and available on an equal basis. The County shall provide at least enough English and Spanish
17 and English and Chinese ballots to equal the number of registered voters in a precinct whose
18 surname indicates membership in a particular minority group. Moreover, the County shall
19 ensure that the boxes containing the Spanish and Chinese ballots are clearly marked in bold
20 lettering to avoid poll worker confusion. The Parties may by written agreement adjust the above
21 described standard in light of confirmed information that the actual language need in a particular
22 precinct is less or greater than that standard.

1 7. To the extent the County posts instructions on casting a ballot and other
2 information in English in the voting booth, the County shall also provide that same information
3 in Spanish and Chinese.

4 8. Sample ballots and other written materials mailed to voters' homes shall be
5 provided in Spanish and Chinese to voters who have requested translated materials. These
6 minority-language materials must be mailed out at the same time as the English-language
7 materials.

8 9. Defendants shall ensure that all Spanish, Chinese, and English language election
9 information, materials, and announcements are made equally available. Spanish and Chinese
10 language information shall be distributed in newspapers, radio, the Internet, and other media that
11 exclusively or regularly publish or broadcast information in Spanish and Chinese to the local
12 population. Dissemination of these minority language announcements shall be in the form,
13 frequency, and media best calculated to achieve notice and understanding equal to that provided
14 to the English-speaking population and to provide substantially the same information, but need
15 not be identical in all respects to English language announcements.

16 10. The County shall work with its Spanish-language and Chinese-language election
17 program coordinators (see paragraph 24, *infra*, delineating the coordinators' duties) to identify
18 Hispanic and Chinese organizations in the County as well as organizations that serve Spanish-
19 speaking or Chinese-speaking citizens. After identifying these organizations, the County shall
20 consult with its Advisory Group members (see paragraphs 25-27, *infra*, establishing the
21 guidelines for the Advisory Group) to update and review the organizations. The County shall
22 affirmatively contact the organizations by telephone and in writing to inform these groups of this
23 Decree and solicit their assistance in contacting limited-English proficient voters. Within 30
24 days of the entry of this Decree, the County shall also extensively distribute postage prepaid
25

1 cards through these groups to provide limited-English proficient individuals with instructions on
2 how to obtain Spanish-language or Chinese-language voting and election materials at home, and
3 the County shall also mail these cards to all voters with Spanish or Chinese surnames who were
4 born in either a Spanish-speaking or Chinese-speaking country and have thus far not requested
5 election materials in a minority language.

6 **Spanish and Chinese Language Assistance**

7 11. Spanish and Chinese language assistance shall be available at all locations where
8 election-related transactions are conducted except as outlined below for election precincts.

9 Trained bilingual (Spanish fluent plus English fluent and Chinese fluent plus English fluent)
10 election personnel shall be available to answer voting-related questions by telephone without
11 cost to voters during normal business hours at the Registrar of Voters' office. The County may
12 coordinate the provision of such services with other governmental or non-governmental entities
13 that conduct elections.

14 12. Defendants shall recruit, hire, and assign poll officials able to understand, speak,
15 write, and read Spanish and English fluently to provide effective assistance to Spanish-speaking
16 voters at the polls on election days. Defendants shall recruit, hire, and assign poll officials able
17 to understand, speak, write, and read Chinese and English fluently to provide effective assistance
18 to Chinese-speaking voters at the polls on election days.

19 13. Alameda County agrees that in targeting precincts for bilingual assistance it shall
20 consult Spanish and Chinese surnames of registered voters, data from the 2010 Census and the
21 most recent Five-Year Survey data from the American Community Survey regarding the location
22 of persons of Hispanic origin and persons of Chinese origin in the County.

23 14. Defendants agree to the following targets for Spanish-language assistance with
24 bilingual poll workers fluent in English and Spanish:

1 a. any election precinct in which there are 100-249 registered voters
2 with Spanish surnames shall be staffed by at least one bilingual election
3 official;

4 b. any election precinct in which there are 250-499 registered voters
5 with Spanish surnames shall be staffed by at least two bilingual election
6 officials; and

7 c. any election precinct in which there are 500 or more registered
8 voters with Spanish surnames shall be staffed by at least three bilingual
9 election officials.

10 d. If the ACS data shows that the persons identified as Hispanic
11 origin at the block group level are less than three percent of the population
12 in a particular area, and therefore, it is questionable whether there are a
13 significant number of Spanish-speaking voters in that area, the County
14 shall notify the United States that it will not be providing bilingual poll
15 workers in that particular area, unless it would be required by paragraph
16 14(e) of this consent decree.

17 e. If the County has received 10 or more requests for translated
18 materials from limited-English proficient Spanish-speaking voters in a
19 particular precinct, the County shall provide at least one bilingual poll
20 worker.

21 f. Defendants shall employ bilingual personnel, trained in Spanish
22 language election terminology, who shall be on call and available to travel
23 to a precinct insufficiently staffed by bilingual poll officials to provide any
24
25

1 necessary assistance to any limited-English proficient Spanish-speaking
2 voter.

3 15. Defendants further agree to provide Chinese language assistance (in Mandarin or
4 Cantonese, depending on the limited-English proficient Chinese-speaking population's needs)
5 with bilingual poll workers fluent in English and Chinese, as follows:

6 a. any election precinct in which there are 35-84 registered voters
7 with Chinese surnames shall be staffed by at least one bilingual election
8 official;

9 b. any election precinct in which there are 85-169 registered voters
10 with Chinese surnames shall be staffed by at least two bilingual election
11 officials;

12 c. any election precinct in which there are 170-339 registered voters
13 with Chinese surnames shall be staffed by at least three bilingual election
14 officials; and

15 d. any election precinct in which there are 340 or more registered
16 voters with Chinese surnames shall be staffed by at least four bilingual
17 election officials.

18 e. If the County has received 10 or more requests for translated
19 materials from limited-English proficient Chinese-speaking voters in a
20 particular precinct, the County shall provide at least one bilingual poll
21 worker.

22 f. Defendants shall employ bilingual personnel, trained in Chinese
23 language election terminology, who shall be on call and available to travel
24 to a precinct insufficiently staffed by bilingual poll officials to provide any
25

1 necessary assistance to any limited-English proficient Chinese-speaking
2 voter.

3 16. In the event that the formula outlined in Paragraphs 14 and 15 above requires that
4 more than four bilingual poll workers be assigned to a single precinct, the Parties may agree to
5 modify the number of required bilingual poll workers in that precinct.

6 17. Defendants shall also provide bilingual Spanish language and Chinese language
7 assistance, materials, and information at all early voting polling sites.

8 18. The Parties may, by written agreement, adjust these requirements in light of
9 reliable information that the actual need for language assistance in a particular polling place is
10 lesser or greater than these standards or that the anticipated voter turnout is substantially lower or
11 higher than average voter turnout.

12 19. Signs in English, Spanish, and Chinese shall be posted prominently at all polling
13 places stating that Spanish language assistance and Chinese language assistance is available. At
14 sites without bilingual staff, signs in English, Spanish, and Chinese shall be posted that explain
15 how voters can obtain Spanish language assistance and Chinese language assistance. The
16 County will establish a call-in number available to all polling places that has bilingual
17 interpreters standing by to assist voters.

18 **Other Language Minority Groups**

19 20. Currently, the only language minority groups covered by Section 203 in Alameda
20 County are Spanish-speaking and Chinese-speaking limited-English proficient voters. However,
21 Defendants agree to follow any future determinations made by the Director of the Census and
22 Congress regarding the County's 203 obligations. Specifically, Defendants agree to provide
23 bilingual assistance, materials, and information to any other Alameda County language minority
24 group(s) that may be covered in the future by Section 203.

1 **Election official training**

2 21. Prior to each election, in addition to any required state or county training, the
3 County shall train all poll officials and other election personnel present at the polls, including
4 student poll workers, regarding the provisions of Section 203 of the Voting Rights Act, including
5 the legal obligation and means to make Spanish language and Chinese language assistance and
6 materials available to voters, and the requirement that poll officials be respectful and courteous
7 to all voters regardless of race, ethnicity, color, or language abilities and to avoid inappropriate
8 comments.

9 22. In addition to the general training for poll officials, the County shall train all
10 bilingual poll officials on Spanish language and Chinese language election terminology, voting
11 instructions, and other election-related issues. The County shall maintain a record of which poll
12 officials attend training sessions, including the time, location, and training personnel involved.
13 The County shall provide a copy of the training manual to the United States prior to the start of
14 training sessions. Personnel from the United States will be permitted to observe the training.

15 **Response to Complaints About Poll Officials**

16 23. Defendants, upon receipt of complaints by voters, whether oral or written, relating
17 to minority language voters, materials or assistance shall investigate expeditiously any such
18 election-related allegations, including poll official hostility toward Spanish-speaking or Chinese-
19 speaking voters in any election. The results of the investigation(s) conducted by the Defendants
20 shall be reported to the United States within 30 days. The report shall include the County's
21 "Trouble Ticket(s)" generated regarding the matter. Where there is credible evidence that poll
22 officials have engaged in inappropriate treatment of Spanish-speaking or Chinese-speaking
23 voters, Defendants shall remove those poll officials.

24 **Spanish Language and Chinese Language Election Program Coordinators**

1 24. Defendants shall designate individuals to coordinate the County's Spanish
2 language and Chinese language election program ("the Coordinators") for all elections within the
3 County. Defendants shall provide the Coordinators with support sufficient to meet the goals of
4 the program. The Coordinators shall be able to understand, speak, write, and read fluently both
5 Spanish and English or Chinese and English. The Coordinators' responsibilities shall include
6 coordination of the translation of ballots and other election information; development and
7 oversight of Spanish and Chinese language publicity programs, including selection of
8 appropriate Spanish language and Chinese language media for notices and announcements;
9 training, recruitment, and assessment of Spanish language proficiency and Chinese language
10 proficiency of bilingual poll officials and interpreters; and managing other aspects of the
11 program.

12 **Advisory Group**

13 25. Defendants shall establish an Advisory Group to assist and inform the Spanish
14 language and Chinese language election program. The Advisory Group shall be open to any
15 interested community members and organizations and will help to determine how to most
16 effectively provide election materials, information, and assistance to Spanish-speaking and
17 Chinese-speaking voters. Defendants shall maintain a roster of the Advisory Group members
18 together with the telephone and facsimile numbers or e-mail addresses of each member. The
19 Advisory Group shall meet regularly for six months prior to the first election conducted by
20 Defendants under the Decree, and at least once during the two months after the election.
21 Thereafter, the Advisory Group shall meet as it determines is necessary, so long as it meets at
22 least three times during the six months before the November 2012 general election, at least once
23 during the two months after the November 2012 general election. The Parties may by writing
24 adjust the Advisory Group's meeting schedule after consultation with the Advisory Group. The
25

1 Coordinators shall provide notice of all planned meetings, including the date, time, location, and
2 agenda at least 14 days in advance of such meeting, although members of the Advisory Group
3 may agree to waive or shorten this time period as necessary.

4 26. Within five days after each meeting, the Coordinator shall provide a written
5 summary of the discussion and any decisions reached at the meeting to all Advisory Group
6 members and to the Registrar of Voters. If the Registrar of Voters decides not to implement an
7 Advisory Group's suggestion or a consensus cannot be reached respecting such suggestion, the
8 Registrar of Voters shall provide to the Advisory Group through the Coordinators, and maintain
9 on file, a written statement of the reasons for rejecting such suggestion. Defendants shall
10 provide a copy of each such summary and report to each member of the Advisory Group and to
11 any additional interested member of the public who requests such information.

12 27. Defendants shall transmit to all members of the Advisory Group, and to any
13 additional interested member of the public who requests such information, in English, Spanish,
14 or Chinese, copies of all election information, announcements, and notices that are provided or
15 made available to the electorate and general public, and request that they share such information
16 with others.

17 **Federal Observers**

18 28. To assist in monitoring compliance with and ensure effectiveness of this Decree,
19 and to implement the voting guarantees of the Fourteenth and Fifteenth Amendments for the
20 citizens of Alameda County, the appointment of federal observers is authorized for Alameda
21 County pursuant to Section 3(a) of the Voting Rights Act, 42 U.S.C. § 1973a(a), for the duration
22 of this Decree.

23 29. Defendants shall recognize the authority of Federal observers to gather
24 information and to observe all aspects of voting conducted in the polls on election day, including
25

1 the authority to view County personnel providing assistance to voters during voting, except
2 where the voter objects.

3 **Evaluation, Modification, and Termination**

4 30. The Parties recognize that regular and ongoing reassessment may be necessary to
5 provide the most effective and efficient Spanish-language and Chinese-language election
6 program. Defendants shall evaluate the Spanish-language and Chinese-language election
7 program after each election to determine which aspects of the program are functioning well;
8 whether any aspects need improvement; and how to effect needed improvements. The program
9 may be adjusted at any time upon joint written agreement of the Parties.

10 31. This Decree shall terminate no later than March 30, 2017. The Decree may
11 terminate on an earlier date, provided the Parties agree or this Court determines, in accordance
12 with the procedures in paragraphs 32-35 below that Defendants have achieved substantial
13 compliance with the terms of the Decree for the previous two election cycles.

14 32. If after the November 2014 election, or anytime subsequent to that date, the
15 Defendants' assessments show that they have been substantially complying with all aspects of
16 this Decree for the previous two election cycles and have the intent and means to continue
17 compliance with Section 203, the Defendants will file a report with the United States
18 demonstrating substantial compliance with each provision of this Decree. An "election cycle"
19 refers to all elections administered by Defendants during a calendar year. Defendants shall
20 include with any certification request reports from the Coordinator and the Advisory Group
21 detailing the Defendants' efforts to comply with the Decree. Defendants shall bear the burden of
22 demonstrating that they have substantially complied with the Decree and maintained substantial
23 compliance for the required period.

1 33. After conferring with Defendants, the United States, in its good faith discretion,
2 will determine whether the Defendants have maintained substantial compliance for the requisite
3 election cycles, and a conclusion of substantial compliance may not be unreasonably withheld.
4 If the Parties agree that there is substantial compliance, they shall file a joint motion with the
5 Court to terminate the Decree.

6 34. If the United States determines that the County has not substantially complied for
7 the requisite period, and if Defendants dispute such determination, the County may file a motion
8 with this Court for termination of the Decree after the November 2014 election, or anytime
9 subsequent to that date. In any such proceeding, the County shall have the burden of
10 demonstrating substantial compliance. The County must notify the United States and the
11 Advisory Group, and provide public notice of its intention to file such motion, at least 45 days
12 prior to filing a contested motion to terminate the Decree. The County shall make public the
13 report sent to the United States showing substantial compliance, and invite comments from the
14 public. The County shall publish the report on its election information website. The Advisory
15 Group shall also disseminate the report to interested community members. Further, the County
16 shall publish a notice informing the public of its motion to terminate the consent decree in the
17 newspapers or other media it relies upon to publicize election-related information to the Spanish-
18 speaking and Chinese-speaking communities pursuant to paragraph 9 of the consent decree. The
19 notice shall be provided in Spanish and in Chinese as well as in English, and shall advise how
20 persons can submit their comments and provide the contact information for the appropriate
21 election officials, including Spanish-speaking and Chinese-speaking bilingual officials, who can
22 answer questions relating to the notice. The County shall allow at least 30 days for public
23 comment before filing the motion to terminate the Decree. The County shall provide all
24 comments received to the United States.

1 35. Within thirty (30) days after submission of the information described in paragraph
2 39 below regarding any election conducted throughout the term of this Agreement, the United
3 States shall notify Defendants' counsel and the Registrar of Voters of any known alleged
4 violation or potential violation of this Agreement and shall provide Defendants a report detailing
5 the Defendants' alleged violation of this Agreement. The United States and Defendants shall
6 work together in good faith to remedy as soon as possible any violation of this Agreement.
7 Defendants may provide a written response to the federal observers' report within thirty (30)
8 days after receipt of the written report. If Defendants fail to submit a written response within
9 thirty (30) days, or indicates in its written response that Defendants do not have the intent or
10 means to comply with the terms of this Agreement applicable to the particular election, the
11 United States shall have the right to seek such relief as may be necessary to enforce the terms of
12 this Agreement.

13 **Retention of Documents and Reporting Requirements**

14 36. Throughout the duration of this Decree, Defendants shall make and maintain
15 written records of all actions taken pursuant to this Decree sufficient to document its compliance
16 with all of the requirements of the Decree. Such records shall be made available, to the United
17 States, upon its request and upon reasonable notice.

18 37. During the duration of this Decree, at least 30 days before each County
19 administered election, except for mail ballot elections, Defendants shall provide to counsel for
20 the United States:

- 21 a. the name, address, and precinct designation of each polling place;
- 22 b. the name and title of each poll official appointed and assigned to serve at
- 23 each polling place, as of the date the materials are sent;
- 24
- 25

- 1 c. a designation of whether each poll official is bilingual in English and
- 2 Spanish or English and Chinese;
- 3 d. an electronic copy of the voter registration list to be used in such elections;
- 4 e. copies of any signs or other written information provided at polling places;
- 5 and
- 6 f. agendas and minutes from previous meetings of the Advisory Group.

7 38. During the duration of this Decree, at least 30 days before each County
8 administered vote by mail election, Defendants shall provide to counsel for the United States:

- 9 a. an electronic copy of the voter registration list to be used in such elections;
- 10 b. a copy of all the materials and information relating to the vote by mail
- 11 election that the County sent its voters, including all translated materials and
- 12 information.
- 13 c. agendas and minutes from previous meetings of the Advisory Group.

14 39. Within 30 days after each such election, the County shall provide to counsel for
15 the United States any updated report regarding changes in these items as well as information
16 about all complaints the County received at the election regarding language or assistance issues,
17 by express mail or electronically to the following address:

18 United States Department of Justice
19 Civil Rights Division
20 Voting Section
21 950 Pennsylvania Avenue NW
22 Room NWB-7254
23 Washington, D.C. 20530
24 Telephone: (202) 353-0419
25

1 Facsimile: (202) 307-3961

2 bruce.gear@usdoj.gov

3 olimpia.michel@usdoj.gov

4 **Other Provisions**

5 40. This decree is final and binding regarding the claims raised in this action.

6 41. The Court shall retain jurisdiction of this case to enter further relief or such other
7 orders as may be necessary for the effectuation of the terms of this agreement and to ensure
8 compliance with Section 203 of the Voting Rights Act.

AGREED AND CONSENTED TO:

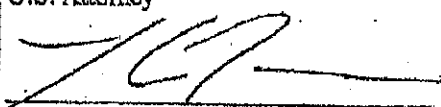
Date: 12 day of Oct, 2011

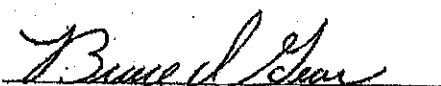
For Plaintiff:

UNITED STATES OF AMERICA

THOMAS E. PEREZ
Civil Rights Division
Assistant Attorney General

MELINDA HAAG
U.S. Attorney


ILA C. DEISS
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For Defendants:

ALAMEDA COUNTY, CALIFORNIA;
DAVE MACDONALD, ALAMEDA
COUNTY REGISTRAR OF VOTERS, in
his official capacity; and the ALAMEDA
COUNTY BOARD OF SUPERVISORS.

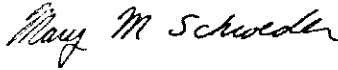

RAYMOND S. LARA
Deputy County Counsel

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JUDGMENT AND ORDER

This three-judge Court, convened under 28 U.S.C. 2284 and 42 U.S.C. § 1973aa-2, having considered the United States' claim under Section 203 of the Voting Rights Act, 42 U.S.C. § 1973aa-1a, and having determined that it has jurisdiction over this claim, has considered the terms of this Consent Decree, and hereby enters the relief set forth above and incorporates those terms herein. Pursuant to Section 3(a) of the Voting Rights Act, 42 U.S.C. 1973a(a), federal observers are authorized to attend and observe elections in Alameda County during the period of this decree.

ENTERED and ORDERED this 19th day of October, 2011.



MARY M. SCHROEDER

United States Circuit Judge



EDWARD M. CHEN

United States District Judge



RICHARD SEEBORG

United States District Judge

Martinez, Ruben

From: Martin Enriquezmarquez < >
Sent: Thursday, December 02, 2021 6:07 PM
To: PublicComment-AutoResponse; cityclerk
Subject: 8A. Santa Paula Complaint
Attachments: santapaula_comp_ro_tag.pdf

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8A. Santa Paula Complaint

Martin

2 December 2021

1 JANET RENO
 Attorney General
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 Acting Assistant Attorney
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 4 ROBERT A. KENGLE
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 13 Attorneys for Plaintiff

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 CENTRAL DISTRICT OF CALIFORNIA
 LOS ANGELES

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IN THE UNITED STATES DISTRICT COURT FOR THE
 CENTRAL DISTRICT OF CALIFORNIA
 WESTERN DIVISION

THE UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 CITY OF SANTA PAULA, CALIFORNIA;)
)
 21 SANTA PAULA CITY COUNCIL;)
)
 RICHARD COOK, LAURA FLORES)
)
 22 ESPINOSA, JAMES GARFIELD, DONALD)
)
 JOHNSON, ROBIN SULLIVAN, members)
)
 23 of the Santa Paula City Council;)
)
 RICHARD DEAN, Ventura County)
)
 24 Clerk-Recorder,)
)
)
)
 25 Defendants.)
)

00-03691GHK

CIVIL ACTION NO. (SHX)

COMPLAINT

COMPLAINT

1

2 The United States of America, plaintiff herein, alleges:

3 1. The Attorney General files this action pursuant to
4 Sections 2 and 12(d) of the Voting Rights Act of 1965, as
5 amended, 42 U.S.C. 1973, and 42 U.S.C. 1973j(d). The Court has
6 jurisdiction of this action pursuant to 28 U.S.C. 1345 and 42
7 U.S.C. 1973j(f).

8 2. Defendant City of Santa Paula is a political and
9 geographical subdivision of the State of California.

10 3. Defendant Santa Paula City Council is the body
11 established under the laws of the State of California that is
12 responsible for governing Santa Paula.

13 4. The Santa Paula City Council consists of five members.
14 Defendants Richard Cook, Laura Flores Espinosa, James Garfield,
15 Donald Johnson, and Robin Sullivan are the current members of the
16 city council and Mr. Cook is the current mayor. All five
17 councilmembers are residents of Santa Paula and each
18 councilmember is sued in his or her official capacity.

19 5. Defendant Richard Dean serves as the Clerk-Recorder for
20 Ventura County. As Clerk-Recorder, Mr. Dean is responsible for
21 exercising certain powers and duties associated with the conduct
22 of primary and general elections in Santa Paula, including
23 elections for the Santa Paula City Council. Mr. Dean is a
24 resident of Ventura County and is sued in his official capacity.

25 6. According to the 1990 Census, Santa Paula has a total
26 population of 25,062, 14,753 (58.9%) of which is Hispanic, and a
27 voting age population of 17,558, 9,421 (53.7%) of which is
28 Hispanic. Based on 1990 Census data, Santa Paula has a citizen

1 voting age population of approximately 13,000, of which
2 approximately 40% is Hispanic. As of November 1998, the most
3 recent city council election, approximately 45% of the registered
4 voters and 41% of the voters casting ballots had Spanish
5 surnames.

6 7. The Santa Paula City Council is composed of five
7 members elected at large to four-year, staggered terms.

8 8. The Hispanic population of Santa Paula is sufficiently
9 numerous and geographically compact that a properly apportioned
10 single-member district plan for electing the defendant City
11 Council can be drawn in which Hispanic citizens would constitute
12 a majority of the citizen voting age population in two districts.

13 9. Hispanic voters in Santa Paula are politically cohesive.
14 Racially polarized voting patterns prevail in elections for the
15 Santa Paula City Council. White bloc voting usually results in
16 the defeat of Hispanic voters' candidates of choice. In each
17 election since 1990 for the Santa Paula City Council, Hispanic
18 and non-Hispanic voters consistently have preferred different
19 candidates and the candidates preferred by white voters usually
20 have defeated Hispanic voters' preferred candidates.

21 10. Ms. Flores Espinosa is the only Hispanic member of the
22 Santa Paula City Council, and she is the only member of the Santa
23 Paula City Council who was a candidate of choice among Hispanic
24 voters.

25 11. The staggering of terms for Santa Paula City Council
26 elections reduces the opportunities for Hispanic voters to
27 overcome the effect of white bloc voting.

28

1 12. Hispanic persons in Santa Paula have suffered from a
 2 history of official discrimination that has affected the ability
 3 of Hispanic persons to participate effectively in the political
 4 process.

5 13. Hispanic persons in Santa Paula bear the effects of
 6 past discrimination in areas such as education, employment, and
 7 housing, as reflected in their depressed socioeconomic status
 8 relative to white Santa Paula residents. These effects of past
 9 discrimination hinder the current ability of Hispanics to
 10 participate effectively in elections in Santa Paula.

11 14. During political campaigns in Santa Paula, there have
 12 been instances of racial appeals.

13 15. The Santa Paula City Council has adopted an annexation
 14 plan that is likely to result in the reduction of the percentage
 15 of Hispanic voting age citizens in the City of Santa Paula.

16 16. Under the totality of the circumstances, the at-large
 17 election system for electing the Santa Paula City Council has the
 18 effect of diluting Hispanic voting strength, resulting in
 19 Hispanic citizens being denied an opportunity equal to that
 20 afforded to other members of the electorate to participate in the
 21 political process and elect representatives of their choice, in
 22 violation of Section 2 of the Voting Rights Act, 42 U.S.C. 1973.

23 17. Unless enjoined by order of this Court, defendants will
 24 continue to conduct elections for the Santa Paula City Council
 25 using the current at-large electoral system, in violation of
 26 Section 2 of the Voting Rights Act, 42 U.S.C. 1973.

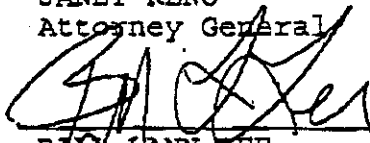
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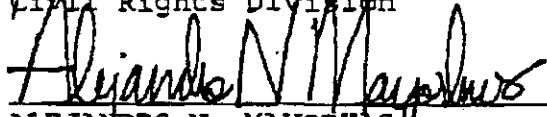
1 WHEREFORE, the United States of America prays that this
2 Court enter an order:
3 (1) Declaring that the at-large method of electing members
4 of the Santa Paula City Council violates Section 2 of
5 the Voting Rights Act;
6 (2) Enjoining the defendants, their agents and successors
7 in office, and all persons acting in concert with any
8 of them, from administering, implementing, or
9 conducting any future elections for the Santa Paula
10 City Council under the current at-large method of
11 electing city councilmembers;
12 (3) Ordering defendants to devise and implement an election
13 system for the Santa Paula City Council which complies
14 with Section 2 of the Voting Rights Act, 42 U.S.C.
15 1973; and
16 (4) Ordering such additional relief as the interests of
17 justice may require, together with the costs and
18 disbursements in maintaining this action.
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JANET RENO
 Attorney General



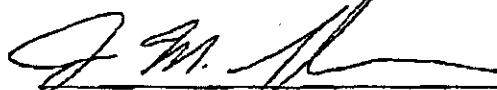
BILL LANN LEE
 Acting Assistant Attorney General
 Civil Rights Division



ALEJANDRO N. MAYORKAS
 United States Attorney
 MICHELE C. MARCHAND
 Assistant United States Attorney



JOSEPH D. RICH
 Acting Chief, Voting Section



ROBERT A. KENGLE
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 Attorneys, Voting Section
 Civil Rights Division
 Department of Justice
 P.O. Box 66128
 Washington, D.C. 20035-6128
 (202) 307-3113

Martinez, Ruben

From: Martin Enriquezmarquez <
Sent: Thursday, December 02, 2021 6:09 PM
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Subject: 8B. Santa Paula Order
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8B. Santa Paula Order

Martin

2 December 2021

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AS REQUIRED BY FRCP, RULE 77(d)

ORIGINAL

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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CIVIL MINUTES-GENERAL

Case No.: CV 00-03691-GHK (SHx)

Date: October 23, 2001

Title: United States of America v. City of Santa Paula, et al.

DOCKET ENTRY

PRESENT: Hon. George H. King, United States District Judge

Beatrice Herrera
Deputy Clerk

None Present
Court Reporter

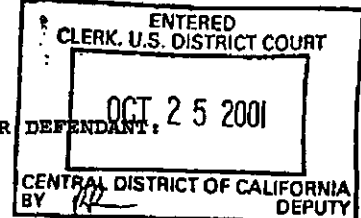
ATTORNEYS PRESENT FOR PLAINTIFF:

ATTORNEYS PRESENT FOR DEFENDANT:

None Present

None Present

PROCEEDINGS: Motion by the United States and Santa Paula to
dismiss the complaint without prejudice.



This matter is before the court on the above-titled motion. We conclude that this matter is appropriate for decision without oral argument. See Fed. R. Civ. P. 78; Local Rule 7-15 (formerly Local Rule 7.11). After considering all papers filed with this motion, and with Defendant-Intervenor's motion for declaratory relief, we rule as follows:

I. Background

On April 6, 2001, the United States ("U.S.") filed a complaint alleging that the City of Santa Paula ("Santa Paula") violated section 2 of the Voting Rights Act of 1965. The U.S. alleged that the at-large system for electing Santa Paula council members diluted Hispanic voting strength. On July 26, 2001, we granted Defendant-Intervenor status to the Santa Paula Voters Opposed to Electoral Redistricting ("Intervenor").

On August 30, 2001, the U.S. and Santa Paula entered into a settlement agreement, which they revised and re-executed on September 26, 2001. The settlement provided for dismissal of the complaint, payment by each side of its costs, and a set of stipulated facts. The U.S. and Santa Paula attempted to include Intervenor, but the parties were unable to reach an agreement.

Pursuant to their settlement agreement, the U.S. and Santa Paula move this court to dismiss the complaint without prejudice and incorporate the terms of their settlement agreement and stipulation of facts into its order. Intervenor requests dismissal only be with prejudice, that the U.S. pay Santa Paula's

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litigation expenses, that Intervenor be granted the right to intervene in future litigation, and that the court reject portions of the stipulation of facts.

II. Analysis

A plaintiff may voluntarily dismiss its complaint as a matter of right before the filing of an answer or motion for summary judgment. Fed. R. Civ. P. 41(a)(1). The court must also dismiss the complaint if a stipulation of dismissal is signed by all the parties who have appeared in the case. *Id.* In all other instances,

an action shall not be dismissed at the plaintiff's instance save upon order of the court and upon such terms and conditions as the court deems proper. If a counterclaim has been pleaded by a defendant prior to the service upon the defendant of the plaintiff's motion to dismiss, the action shall not be dismissed against the defendant's objection unless the counterclaim can remain pending for independent adjudication by the court. Unless otherwise specified in the order, a dismissal under this paragraph is without prejudice. Fed. R. Civ. P. 41(a)(2).

In our case, an answer has been filed, and the parties, including Intervenor, have not unanimously stipulated to dismissal without prejudice. Therefore, the U.S. and Santa Paula may not dismiss the complaint as a matter of right. However, dismissal by court order is available because the only party objecting to dismissal, Intervenor, has not pled a counterclaim. *See* October 9, 2001 Minute Order.

A. Dismissal Without Prejudice

A motion for voluntary dismissal under Rule 41(a)(2) is addressed to our sound discretion. Westlands Water Dist. v. U.S., 100 F.3d 94, 96 (9th Cir. 1996); Hyde & Drath v. Baker, 24 F.3d 1162, 1169 (9th Cir. 1994); Koch v. Hankins, 8 F.3d 650, 652 (9th Cir. 1993); Stevedoring Serv. of Am., Armilla Int'l B.V., 889 F.2d 919, 921 (9th Cir. 1989); Hamilton v. Firestone Tire & Rubber Co., 679 F.2d 143, 145 (9th Cir. 1982). When deciding whether to dismiss with or without prejudice, the court determines whether dismissal without prejudice will result in plain legal prejudice to the objecting party. Westlands, 100 F.3d at 96.

Plain legal prejudice means prejudice to "some legal interest, some legal claim, some legal argument." *Id.* at 97; Bader v. Elec. for Imaging, Inc., 195 F.R.D. 659, 661-62 (N.D. Cal. 2000) (quoting Westlands with approval). It can result from

the loss of a right to a jury trial or potential statute of limitations arguments. Westlands, 100 F.3d at 97; Petaluma City Sch. Dist. v. Victor D., 2001 WL 492466, *2 (N.D. Cal. May 3, 2001). It can also result when dismissal denies a party of not simply that particular federal forum, but any federal forum. Petaluma City Sch. Dist., at *2 (citing Westlands).

Uncertainties caused by the threat of future litigation, expenses, or delays do not constitute prejudice. Westlands, 100 F.3d at 97-98; see also Creative Labs, Inc. v. Orchid Tech., 1997 WL 588923, *2 (N.D. Cal. Sept. 12, 1997) ("the prospect of future litigation is insufficient to establish plain legal prejudice"); Hyde & Drath, 24 F.3d at 1169 ("inconvenience of defending another lawsuit or the fact that the defendant has already begun trial preparations does not constitute prejudice."); Hamilton, 679 F.2d at 146 (rejecting litigation expenses as basis for legal prejudice); Shumate v. Buna, 1998 WL 822771, *3-4 (N.D. Cal. Nov. 13, 1998) (granting voluntary dismissal without prejudice two years after case filed because defendants did not explain how delay foreclosed their ability to assert a legal interest, claim, or argument in the future). A pending dispositive motion, such as one for summary judgment, is a factor to consider before granting dismissal without prejudice, but does not necessarily constitute prejudice. Creative Labs, Inc., *2; see also Westlands, 100 F.3d at 94.

In this case, Intervenor does not object to dismissal without prejudice because it will lose the right to a trial by jury or potential statute of limitations arguments. Nor does it allege that dismissal will result in the complete denial of any federal forum. Instead, Intervenor objects primarily on the grounds of uncertainty, expense and delay, grounds which the Westlands court and other Ninth Circuit authorities reject as insufficient to establish prejudice.

Dismissal without prejudice may leave "a cloud of fear over Santa Paula," but Intervenor nevertheless retains the ability to effectively advocate against the U.S. in future litigation. Intervenor does not explain why litigation expenses in this case are prejudicial or why we should distinguish this case from the numerous circuit authorities which have held expenses not so prejudicial as to require dismissal with prejudice. Moreover, Intervenor relies on Santa Paula's expenses, not its own. Santa Paula does not seek to recover its litigation expenses, and explicitly states so in its settlement agreement with the U.S. and its reply in the instant motion.

Intervenor argues that the U.S. improperly delayed before seeking dismissal. Though the U.S. may have been able to settle with Santa Paula earlier, this motion is still brought a little over a year after commencement, well within what other courts

have considered reasonable. See, e.g., Shumate, 1998 WL 822771, *3-4 (granting voluntary dismissal after two years). The purported delay does not affect a legal claim, interest, or argument otherwise available to Intervenor. Furthermore, we do not find that the U.S. filed this motion for an improper purpose.

Intervenor contends that dismissal will result in prejudice because it will have to file a motion to intervene in future litigation. However, this is really a complaint about litigation expenses, which does not rise to the level of legal prejudice. Moreover, pursuant to the settlement agreement, we expect the U.S. to act in good faith and stipulate to Intervenor's return should the issues in a future case be substantially the same. If the U.S. does not, Intervenor could seek relief under, among other things, 28 U.S.C. § 1927. Intervenor will not have to unnecessarily incur the same expenses twice. However, it is premature for us to condition dismissal without prejudice on Intervenor's ability to intervene again without further examination of the circumstances surrounding a lawsuit that has yet to be filed, which indeed may never be filed.

Intervenor next objects to numerous stipulated facts incorporated into the settlement agreement because it finds them offensive to the dignity of Santa Paula. Intervenor may find the facts offensive, but they do not constitute legal prejudice. The settlement agreement has no effect on Intervenor's rights, nor could it, since Intervenor is not a signatory.

Finally, Intervenor claims to have filed a motion for summary judgment and argues that such a motion bars dismissal by court order. Westlands is to the contrary. There, the Ninth Circuit reversed a district court for granting summary judgment and refusing to dismiss without prejudice. 100 F.3d at 94, 97.

Therefore, we **GRANT** the motion to dismiss without prejudice.

B. Terms and Conditions on Dismissal

The only remaining issue is what terms, if any, to make a condition of the dismissal without prejudice. Intervenor urges us to condition any dismissal on payment of Santa Paula's litigation expenses and on Intervenor's right to intervene in future litigation. The decision to place terms or conditions on dismissal is within our sound discretion. Stevedoring Serv. of Am., 889 F.2d at 921, Koch, 8 F.3d at 652.

1. Attorneys Fees and Costs

Attorneys fees are not necessary before granting a dismissal without prejudice, despite the possibility of future litigation on similar issues. Stevedoring Serv. of Am., 889 F.2d at 921.

Even if granted, a defendant is only entitled to recover attorneys fees or costs for work which is not useful in continuing litigation between the parties. Koch, 8 F.3d at 652.

As discussed above, Intervenor does not seek recovery of its own costs and attorneys fees. It wants the court to condition dismissal on payment of Santa Paula's fees. Intervenor does not explain why this condition is necessary to protect itself or Santa Paula against duplicative litigation expenses. In fact, the expenses incurred to date would undoubtedly be useful to Santa Paula should the U.S. decide to reassert its allegations concerning voting rights violations.

This is a complex case and the U.S. does not appear to have taken unfounded positions. Consequently, for the above stated reasons, we decline to make payment of Santa Paula's litigation expenses a condition of dismissal.

2. The Right to Re-Intervene

Intervenor requests an automatic right to intervene in future litigation. We decline to make this a condition of dismissal. See discussion supra at II A ¶ 7, p.4. We do not consider it appropriate to issue what in effect is an advisory opinion for a case that might never be brought, involving as yet undetermined claims, and relating to undeterminable facts. Intervenor's interests are adequately protected by the good faith requirement on the U.S. in the settlement agreement.

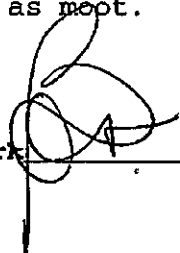
III. Disposition

The action is **DISMISSED** without prejudice. The terms of the settlement agreement between the U.S. and Santa Paula are incorporated into this order, as well as the stipulation of facts. Their incorporation shall have no binding effect upon Intervenor. Intervenor's stayed motions are **DENIED** as moot.

IT IS SO ORDERED.

MINUTES FORM 11
CIVIL-GEN

Initials of Deputy Clerk



Martinez, Ruben

From: Martin Enriquezmarquez <
Sent: Thursday, December 02, 2021 6:12 PM
To: PublicComment-AutoResponse; cityclerk
Subject: 9A. Boston complaint
Attachments: boston_comp.pdf

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9A. Boston complaint

Martin

2 December 2021

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
 Plaintiff,)
)
 v.)
)
 CITY OF BOSTON,)
 MASSACHUSETTS; THOMAS M.)
 MENINO, in his official capacity as)
 Mayor of the City of Boston;)
 BOSTON CITY COUNCIL:)
 MICHAEL F. FLAHERTY, PAUL J.)
 SCAPICCHIO, JAMES M. KELLY,)
 MAUREEN E. FEENEY,)
 CHARLES C. YANCEY, ROB)
 CONSALVO, JOHN TOBIN,)
 CHUCK TURNER, MICHAEL P.)
 ROSS, JERRY P. MCDERMOTT,)
 FELIX D. ARROYO, MAURA)
 HENNIGAN, STEPHEN J.)
 MURPHY; BOSTON ELECTION)
 DEPARTMENT; GERALDINE)
 CUDDYER, in her official capacity)
 as Chair of the Boston Election)
 Department,)
)
 Defendants.)
 _____)

CIVIL ACTION No.

COMPLAINT

THREE-JUDGE COURT

05 - 11598 WGY

COMPLAINT

The United States of America, Plaintiff herein, alleges:

1. The Attorney General files this action seeking injunctive and declaratory relief pursuant to Sections 2, 3, 12(d), and 203 of the Voting Rights Act of 1965, as amended, 42 U.S.C. §§ 1973, 1973a(a), 1973j(d), 1973aa-1a, 1973aa-2, and 28 U.S.C. § 2201.

JURISDICTION

2. This Court has jurisdiction of this action pursuant to 28 U.S.C. § 1345 and 42 U.S.C. §§ 1973j(f), 1973aa-2. The claim pursuant to Section 203 of the Voting Rights Act requires that the action be heard and determined by a court of three judges in accordance with the provisions of 42 U.S.C. § 1973aa-2 and 28 U.S.C. § 2284.

PARTIES

3. Defendant City of Boston (“City” or “Boston”) is a geographical and political subdivision of the Commonwealth of Massachusetts (“Commonwealth” or “Massachusetts”) and exists as a charter city organized pursuant to the laws of Massachusetts.

4. Defendant Thomas M. Menino is the Mayor of Boston, with the responsibility of serving as the chief executive officer of the City, appointing the members of the Election Department and selecting election officers. Defendant Menino is a resident of Boston and is sued in his official capacity.

5. Defendant City Council is the legislative body of the City of Boston, with responsibilities which include adopting appropriations and making bylaws or ordinances, including those which impose duties of the City on departments and department heads.

6. Defendant Michael F. Flaherty is the City Council President. Defendant Flaherty is a resident of the City and is sued in his official capacity.

7. Defendants Paul J. Scapicchio, James M. Kelly, Maureen E. Feeney, Charles C. Yancey, Rob Consalvo, John Tobin, Chuck Turner, Michael P. Ross, Jerry P. McDermott, Felix D.

Arroyo, Maura Hennigan, and Stephen J. Murphy are Members of the City Council. Each of these Defendants is a resident of the City and is sued in his or her official capacity.

8. Defendant Election Department is the City department responsible for the conduct of voter registration and elections held in the City. The Election Department conducts all municipal, state, and federal elections within the City and is responsible to ensure that elections are properly managed and conducted in accordance with municipal, state, and federal laws.

9. Defendant Geraldine Cuddyer is the Chair of the Election Department, with duties, powers, and responsibilities concerning the administration of elections held in Boston. Defendant Cuddyer is a resident of the City and is sued in her official capacity.

ALLEGATIONS

10. According to the 2000 Census, Boston has a total population of 589,141, and a citizen voting-age population of 388,579 persons. Boston's Hispanic population is 85,089, representing 14.4% of the City's total population. There are 33,596 Hispanic voting age citizens, representing 8.6% of the City's citizen voting age population. Boston's Chinese population is 19,885 and the Vietnamese population is 11,126, representing 3.4% and 1.8% respectively of the City's total population. There are 9,825 and 4,220 Chinese and Vietnamese voting age citizens respectively among whom 50.1% of the Chinese citizen voting age population and 61.2% of the Vietnamese citizen voting age population are limited English proficient.

11. Boston is subject to the requirements of Section 203 for the Spanish language, pursuant to the designation by the Director of the Census. The Director has determined that more than 10,000 of Boston's voting-age citizens are members of a single language minority group

(Spanish heritage or Hispanic) who do not speak or understand English well enough to participate in the English-language election process and have an illiteracy rate that is higher than the national illiteracy rate. 42 U.S.C. § 1973aa-1a(b)(2); see also 67 Fed. Reg. 48,871 (July 26, 2002). The determination of the Census Bureau that the City of Boston is covered by Section 203 for Spanish is final and non-reviewable. 42 U.S.C. § 1973aa-1a(b)(4).

12. The City of Boston has been continuously covered under Section 203 to provide bilingual elections in Spanish since September 18, 1992. 57 Fed. Reg. 43,213 (Sept. 18, 1992); 67 Fed. Reg. 48,871 (July 26, 2002). The Department of Justice has directly notified election officials, including Boston election officials, in all jurisdictions covered under Section 203 and has provided information regarding the requirements of Section 203. The Department of Justice directly notified Boston election officials of its Section 203 responsibilities in meetings between Civil Rights Division attorney and the City's Election Department Chairs subsequent to the 1990 and 2000 Census designations, respectively, and in letters dated September 21, 1992, July 26, 2002, and August 31, 2004.

13. Because the city of Boston is subject to the requirements of Section 203, "any registration or voting notice, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots" that Defendants provide in English must also be furnished in Spanish. 42 U.S.C. § 1973aa-1a.

FIRST CAUSE OF ACTION

14. Plaintiff hereby realleges and reincorporates by reference paragraphs 1-13 above.
15. In conducting elections in Boston, Defendants have failed to provide election-

related materials, information, and/or assistance in Spanish including, but not limited to, the following:

- (a) Failing to recruit, appoint, train, and maintain an adequate pool of bilingual poll officials capable of providing effective language election information and assistance to limited English proficient Hispanic citizens; and
- (b) Failing to translate into Spanish all election-related announcements, instructions, and notices at election sites; and in particular, failing to translate into Spanish information available in English on the Election Department's website, or to have any effective alternate method of disseminating such information in Spanish.

16. Defendants' failure to provide assistance at all of the polls when such assistance is needed, to recruit, train and assign bilingual poll workers and to translate election information in Spanish and provide adequate bilingual assistance, as described herein, constitutes a violation of Section 203 of the Voting Rights Act, 42 U.S.C. § 1973aa-1a.

17. Unless enjoined by this Court, Defendants will continue to violate Section 203 by failing to provide limited English proficient Hispanic citizens of Boston with Spanish-language election information and assistance necessary for their effective political participation.

SECOND CAUSE OF ACTION

18. Plaintiff hereby re-alleges and reincorporates by reference to paragraphs 1-17 above.

19. Section 2 of the Voting Rights Act prohibits Defendants from applying or imposing any "voting qualification or prerequisite to voting or standard, practice, or procedure" which

results in a denial or abridgment of the right to vote on account of race or color, or membership in a language minority group, including Asian American citizens and citizens of Spanish heritage.

20. In conducting elections in Boston, Defendants have abridged the right of limited English proficient members of language minority groups to vote, in their actions:

- (a) Treating limited English proficient Hispanic and Asian American voters disrespectfully;
- (b) Refusing to permit limited English proficient Hispanic and Asian American voters to be assisted by an assistor of their choice;
- (c) Improperly influencing, coercing or ignoring the ballot choices of limited English proficient Hispanic and Asian American voters;
- (d) Failing to make available bilingual personnel to provide effectively assistance and information needed by minority language voters; and
- (e) Refusing or failing to provide provisional ballots to limited English proficient Hispanic and Asian American voters.

21. Under the totality of the circumstances that exist in Boston, Defendants' conduct has had the effect of denying limited English proficient Hispanic and Asian American voters an equal opportunity to participate in the political process and to elect candidates of their choice on an equal basis with other citizens in violation of Section 2 of the Voting Rights Act, 42 U.S.C. § 1973.

22. Unless enjoined by this Court, Defendants will continue to violate Section 2 of the Voting Rights Act, 42 U.S.C. § 1973, by enforcing standards, practices, or procedures that deny limited English proficient Hispanic and Asian American voters the opportunity to participate effectively in the political process on an equal basis with other members of the electorate.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff, United States, prays that this Court enter an order:

1. With respect to Plaintiff's First Cause of Action:
 - (a) Declaring that Defendants have failed to provide Spanish language election information and assistance necessary to those who require it in Spanish in violation of Section 203 of the Voting Rights Act, 42 U.S.C. § 19733aa-1a;
 - (b) Enjoining Defendants, their employees, agents and successors in office, and all persons acting in concert with them, from failing to provide Spanish language election information and assistance to persons with limited English proficiency as required by Section 203, 42 U.S.C. § 19733aa-1a; and
 - (c) Requiring Defendants to devise, publicize and implement a remedial plan to ensure that Spanish-speaking citizens are able to participate in all phases of the electoral process as required by Section 203, 42 U.S.C. § 19733aa-1a.
2. With respect to Plaintiff's Second Cause of Action:
 - (a) Declaring that Defendants have violated Section 2 of the Voting Rights Act, 42 U.S.C. § 1973, because their actions have resulted in the denial or abridgement of the rights of limited English proficient Hispanic and Asian American voters;
 - (b) Enjoining Defendants, their agents and successors in office, and all persons acting in concert with them, from implementing practices and procedures that deny or abridge the rights of limited English proficient Hispanic and Asian American citizens in violation of Section 2 of the Voting Rights Act, 42 U.S.C. § 1973; and
 - (c) Requiring Defendants to devise and implement a remedial program that provides

Boston's limited English proficient Hispanic and Asian American citizens the opportunity to fully participate in the political process consistent with Section 2 of the Voting Rights Act, 42 U.S.C. § 1973.

3. Plaintiff further requests that this Court:

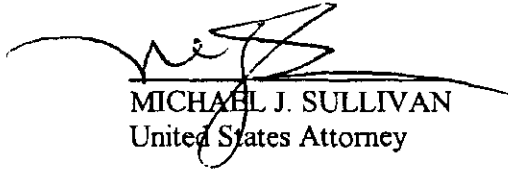
- (a) Authorize the appointment of federal examiners for elections held in Boston pursuant to Section 3(a) of the Voting Rights Act, 42 U.S.C. § 1973a(a) until December 31, 2007;
- (b) Award Plaintiff the costs and disbursements associated with the filing and maintenance of this action; and
- (c) Award such other equitable and further relief as the Court deems just and proper.

Date: ___ day of July, 2005

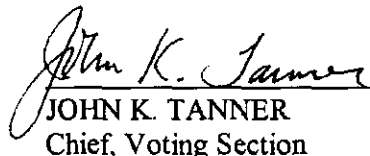
ALBERTO GONZALES
Attorney General



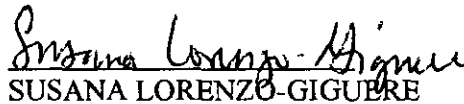
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