

1
2
3
4
5 UNITED STATES DISTRICT COURT
6 FOR THE EASTERN DISTRICT OF WASHINGTON
7 YAKIMA DIVISION

8
9 UNITED STATES OF AMERICA,)
10)
11 Plaintiff,)
12)
13 v.)
14)
15 YAKIMA COUNTY; CORKY MATTINGLY)
16 Yakima County Auditor;)
17 JIM LEWIS, RONALD GAMACHE,)
18 and JESSE PALACIOS,)
19 County Commissioners.)
20)
21 Defendants.)
22)

CV-04-3072-LRS
CIVIL NO.
COMPLAINT

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

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

27 2. This Court has jurisdiction of this action pursuant to 28 U.S.C. § 1345
28 and 42 U.S.C. § 1973aa-2. In accordance with the provisions of 28 U.S.C. § 2284,
29 the Section 203 claim must be heard and determined by a court of three judges.
30

1 3. Defendant YAKIMA COUNTY, is a political and geographical subdivision
2 of the State of Washington and exists as a charter county, organized pursuant to the
3 laws of Washington.

4 4. Defendant CORKY MATTINGLY serves as Yakima County Auditor. As
5 Yakima County Auditor, she is responsible for the administration of elections and
6 voting procedures in Yakima County. Defendant MATTINGLY resides in Yakima
7 County and is sued in her official capacity.

8 5. Defendants JIM LEWIS, RONALD GAMACHE, and JESSE PALACIOS
9 serve as County Commissioners of Yakima County. The Board of County
10 Commissioners is the county's legislative body and is responsible for establishing
11 county policies and the overall administration of the Yakima County government,
12 including but not limited to funding of the office of the Auditor, personnel, and
13 supplies. Defendants Lewis, Gamache, and Palacios reside in Yakima County and
14 are sued in their official capacities.

15 6. According to the 2000 Census:

16 a. Yakima County has a total population of 222,581, of whom 142,676
17 (64.1%) are non-Latino and 79,905 (35.9%) are Latino;

18 b. Yakima County's total voting-age population is 151,830 persons, of
19 whom 107,457 (70.8%) are non-Latino and 44,373 (29.2%) are Latino;

1 c. Yakima County's total citizen voting age population is 129,575 of
2 whom 23,325 (18.0%) are Latino. Of Latino voting age citizens, 6,950
3 (29.8%) have limited English proficiency; and

4 d. Spanish heritage citizens of voting age with limited English
5 proficiency constitute 5.4% of the county's total voting age citizen
6 population.

7 7. Defendant Yakima County is subject to the requirements of Section 203 for
8 the Spanish language, as designated by the Director of the Census. See 28 C.F.R. §
9 55, Appendix. The Director determined that more than five (5) percent of Yakima
10 County's voting age citizens are members of a single language minority group
11 (Spanish heritage) who do not speak or understand English well enough to
12 participate in the English-language election process and have an illiteracy rate that is
13 higher than the national illiteracy rate. 28 C.F.R. § 55.5. The Census Bureau's
14 determination that Yakima County is covered by Section 203 for Spanish is final and
15 non-reviewable. 42 U.S.C. § 1973aa-1a(b)(4).

16 8. Because Yakima County is subject to the requirements of Section 203,
17 "any registration or voting notices, forms, instructions, assistance, or other materials
18 or information relating to the electoral process, including ballots" that Defendants
19 provide in English must also be furnished in Spanish. 42 U.S.C. § 1973aa-1a.

1 9. Defendants have not provided effective election-related materials,
2 information, and/or assistance in Spanish to limited English proficient Latino citizens
3 as required by Section 203. Specifically, Defendants have:

4 a. Failed to provide complete and accurate Spanish translations of all
5 materials produced in English and provided to the public, including, but
6 not limited to, information about voter registration, candidate
7 qualification procedures, voting by mail or absentee, voting at the polls,
8 and voting-related information on the Yakima County Auditor's Internet
9 site;

10 b. Failed to provide effective Spanish-language assistance at county
11 offices and polling places regarding election-related issues;

12 c. Failed to publish Spanish-language materials in a timely fashion; and

13 d. Failed to publish Spanish language materials and information about
14 Spanish-language assistance in a manner accessible to limited English
15 proficient Spanish-speaking voters.

16 10. Defendants' failure to provide Spanish-language election information and
17 assistance constitutes a violation of Section 203.

18 11. Unless enjoined by this Court, Defendants will continue to violate
19 Section 203 by failing to provide Spanish-language minority citizens of Yakima

1 County with Spanish-language election information and assistance necessary for their
2 effective political participation.

3 PRAYER FOR RELIEF

4 WHEREFORE, the United States of America prays that this Court enter an
5 order:

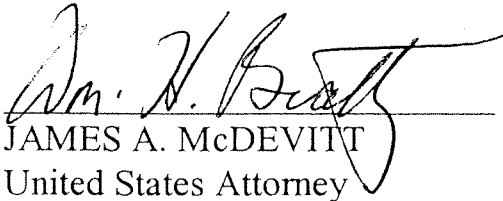
- 6 1. Declaring that Defendants have failed to provide Spanish-language
7 election information and assistance necessary to those who require it in
8 violation of Section 203;
- 9 2. Enjoining Defendants, their employees, agents and successors in office,
10 and all persons acting in concert with them, from failing to provide
11 Spanish-language election information and assistance to persons with
12 limited English proficiency as required by Section 203;
- 13 3. Ordering Defendants to devise and implement a remedial plan to ensure
14 that Spanish-speaking citizens are able to participate in all phases of the
15 electoral process as required by Section 203 for all future elections;
- 16 4. Authorizing the appointment of federal examiners for elections held in
17 Yakima County pursuant to Section 3(a) of the Voting Rights Act, 42
18 U.S.C. § 1973a(a), through December 31, 2006.

19 Plaintiff further prays that this Court order such additional relief as the

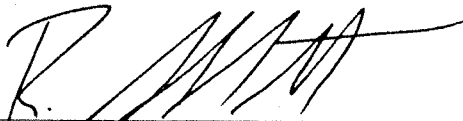
1 interests of justice may require, together with the costs and disbursements in
2 maintaining this action.

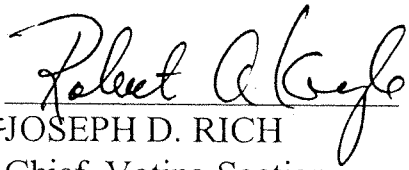
3 *Dated: July 6, 2004*

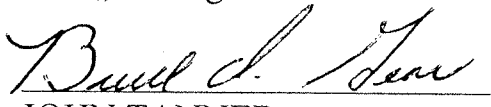
4 JOHN D. ASHCROFT
5 Attorney General

6 
7
8

9 JAMES A. McDEVITT
10 United States Attorney
11 WILLIAM A. BEATTY
12 Assistant United States Attorney
13 Chief, Civil Division
14 Eastern District of Washington
15 920 West Riverside Avenue # 300
16 Spokane, WA 99201-1494

7 
8
9 R. ALEXANDER ACOSTA
10 Assistant Attorney General

17 
18 ~~for~~ JOSEPH D. RICH
19 Chief, Voting Section

20 
21 JOHN TANNER
22 Special Litigation Counsel
23 BRUCE I. GEAR
24 ANA HENDERSON
25 Attorneys, Voting Section
26 Civil Rights Division -NWB
27 U.S. Department of Justice
28 950 Pennsylvania Ave., N.W.
29 Washington, D.C. 20530
30 (202) 353-0419
31