

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

THE UNITED STATES OF AMERICA,

Plaintiff,

v.

EUCLID CITY SCHOOL DISTRICT
BOARD OF EDUCATION and
CUYAHOGA COUNTY BOARD OF
ELECTIONS,

Defendants.

CIVIL ACTION NO.

COMPLAINT

The United States of America, plaintiff herein, alleges:

1. The Attorney General files this action pursuant to Sections 2 and 12(d) of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973, and 42 U.S.C. § 1973j(d).

JURISDICTION

2. The Court has jurisdiction of this action pursuant to 28 U.S.C. § 1345 and 42 U.S.C. § 1973j(f).

PARTIES

3. Defendant Euclid City School District Board of Education is the body established under the laws of the State of Ohio that is responsible for the governance and administration of the Euclid City School District, which is a political subdivision of the State of Ohio.

4. Defendant Cuyahoga County Board of Elections is responsible for exercising certain powers and duties associated with the conduct of elections in the city of Euclid, including elections for the Euclid City School District Board of Education.

ALLEGATIONS

5. Section 2 of the Voting Rights Act, as amended, 42 U.S.C. § 1973, prohibits the enforcement of any voting qualification or prerequisite to voting or any standard, practice, or procedure that results in the denial or abridgement of the right to vote on account of race or color.

6. The at-large method of electing the Euclid Board of Education dilutes the voting strength of African-American citizens, in violation of Section 2 of the Voting Rights Act, 42 U.S.C. § 1973.

7. According to the 2000 Census, the City of Euclid has a total population of 52,717. Of this total population, 30.5% (16,297) is African American, and 65.7% (34,678) is white. Other groups comprise less than four percent of the population.

8. According to the 2000 Census, the City of Euclid has a total voting age population is 40,937, 27.8% (11,397) of which is African American and 69.7% (28,528) of which is white.

9. The Euclid City School District Board of Education is composed of five members, all of whom are elected at large to four-year staggered terms. Every other year, Euclid voters elect either two or three members of the Euclid City School District Board of Education.

10. Racially polarized voting patterns prevail in elections for Defendant Euclid City School District Board of Education. African-American voters voting for the Euclid Board of Education are politically cohesive. White bloc voting usually results in the defeat of candidates who are preferred by African-American voters. Specifically, in elections since 1999 for Defendant Euclid City School District Board of Education, white voters have consistently voted as a bloc so as to defeat every African-American-preferred African-American candidate.

11. Racially polarized voting patterns also prevail in elections for the Euclid City Council. African-American voters voting for the Euclid City Council are politically cohesive. White bloc voting usually results in the defeat of candidates who are preferred by African-American voters. That is, between 1995 and 2007, in elections for the Euclid City Council, white voters have consistently voted as a bloc so as to defeat every African-American preferred African-American candidate.

12. The African-American population of Euclid is sufficiently numerous and geographically compact that a properly apportioned five single-member district plan for electing Defendant Euclid City School District Board of Education can be drawn in which African-Americans would constitute a majority of the total population and voting age population in one district.

13. The dilutive effect of the at-large feature of electing Defendant Euclid City School District Board of Education is enhanced by the use of staggered terms.

14. African-Americans in the City of Euclid have suffered from a history of official discrimination.

15. Elections in the City of Euclid are marked by substantial racial polarization.

16. Significant socioeconomic disparities exist between white and African-American residents of Euclid. Such disparities have the effect of limiting African-American participation in Euclid's at-large elections.

17. Euclid elections have been marked by racial appeals.

18. Social, civic, and political life in the City of Euclid is divided along racial lines. This racial separation results in African-American candidates for city office having less opportunity than white candidates to solicit the votes of the majority voters, who are white.

CAUSE OF ACTION

19. Under the totality of the circumstances, the at-large election system for electing Defendant Euclid City School District Board of Education, enhanced by the use of staggered terms, has the effect of diluting African-American voting strength, resulting in African-American citizens being denied an opportunity equal to that afforded to other members of the electorate to participate in the political process and elect representatives of their choice, in violation of Section 2 of the Voting Rights Act, 42 U.S.C. § 1973.

20. Unless enjoined by order of this Court, Defendants will continue to conduct elections for the Euclid City School District Board of Education under the present method of election that denies African-American citizens the opportunity to participate equally with white citizens in the city political process and to elect candidates of their choice, in violation of Section 2 of the Voting Rights Act, 42 U.S.C. § 1973.

PRAYER FOR RELIEF

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


(1) Declaring that the at-large method of electing members of the Euclid Board of Education, utilizing staggered terms, violates Section 2 of the Voting Rights Act;

(2) Enjoining Defendants Euclid City School District Board of Education and Cuyahoga County Board of Elections, their agents and successors in office, and all persons acting in concert with any of them, from administering, implementing, or conducting any future elections for the Euclid City School District Board of Education under the current at-large method of electing members;

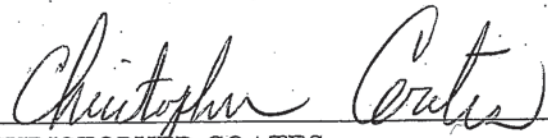
- (3) Ordering Defendant Euclid City School District Board of Education to devise and implement an election system for the Euclid Board of Education that complies with Section 2 of the Voting Rights Act, 42 U.S.C. § 1973; and
- (4) Ordering such additional relief as the interests of justice may require, together with the costs and disbursements in maintaining this action.

Respectfully submitted,

MICHAEL MUKASEY
Attorney General


GRACE CHUNG BECKER
Acting Assistant Attorney General
Civil Rights Division

GREGORY A. WHITE
United States Attorney


CHRISTOPHER COATES
Chief, Voting Section


SONYA L. SACKS
Trial Attorney, Voting Section
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Attorneys for United States of America

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
UNITED STATES OF AMERICA
(b) County of Residence of First Listed Plaintiff
(c) Attorney's (Firm Name, Address, and Telephone Number)
See Attachment

DEFENDANTS
EUCLID CITY SCHOOL DISTRICT BOARD OF EDUCATION
and CUYAHOGA COUNTY BOARD OF ELECTIONS
County of Residence of First Listed Defendant Cuyahoga
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.
Attorneys (If Known)
See Attachment

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
X 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)
PTF DEF
Citizen of This State 1 1
Citizen of Another State 2 2
Citizen or Subject of a Foreign Country 3 3
Incorporated or Principal Place of Business In This State 4 4
Incorporated and Principal Place of Business In Another State 5 5
Foreign Nation 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT TORTS FORFEITURE/PENALTY LABOR IMMIGRATION BANKRUPTCY SOCIAL SECURITY FEDERAL TAX SUITS OTHER STATUTES
110 Insurance 310 Airplane 362 Personal Injury - Med. Malpractice 610 Agriculture 422 Appeal 28 USC 158 400 State Reapportionment
120 Marine 315 Airplane Product Liability 365 Personal Injury - Product Liability 620 Other Food & Drug 423 Withdrawal 28 USC 157 410 Antitrust
130 Miller Act 320 Assault, Libel & Slander 368 Asbestos Personal Injury Product Liability 625 Drug Related Seizure of Property 21 USC 881 430 Banks and Banking
140 Negotiable Instrument 330 Federal Employers' Liability 370 Other Fraud 630 Liquor Laws 820 Copyrights 450 Commerce
150 Recovery of Overpayment & Enforcement of Judgment 340 Marine 371 Truth in Lending 640 R.R. & Truck 830 Patent 460 Deportation
151 Medicare Act 345 Marine Product Liability 380 Other Personal Property Damage 650 Airline Regs. 840 Trademark 470 Racketeer Influenced and Corrupt Organizations
152 Recovery of Defaulted Student Loans (Excl. Veterans) 350 Motor Vehicle 385 Property Damage Product Liability 660 Occupational Safety/Health 861 HIA (1395ff) 480 Consumer Credit
153 Recovery of Overpayment of Veteran's Benefits 355 Motor Vehicle Product Liability 690 Other 862 Black Lung (923) 490 Cable/Sat TV
160 Stockholders' Suits 360 Other Personal Injury 710 Fair Labor Standards Act 863 DIWC/DIWW (405(g)) 810 Selective Service
190 Other Contract 441 Voting 720 Labor/Mgmt. Relations 864 SSID Title XVI 850 Securities/Commodities/Exchange
195 Contract Product Liability 442 Employment 730 Labor/Mgmt. Reporting & Disclosure Act 865 RSI (405(g)) 875 Customer Challenge 12 USC 3410
196 Franchise 443 Housing/Accommodations 740 Railway Labor Act 870 Taxes (U.S. Plaintiff or Defendant) 890 Other Statutory Actions
210 Land Condemnation 444 Welfare 790 Other Labor Litigation 871 IRS—Third Party 26 USC 7609 891 Agricultural Acts
220 Foreclosure 445 Amer. w/Disabilities - Employment 462 Naturalization Application 892 Economic Stabilization Act
230 Rent Lease & Ejectment 446 Amer. w/Disabilities - Other 463 Habeas Corpus - Alien Detainee 893 Environmental Matters
240 Torts to Land 440 Other Civil Rights 465 Other Immigration Actions 894 Energy Allocation Act
245 Tort Product Liability 510 Motions to Vacate Sentence Habeas Corpus: 530 General 535 Death Penalty 540 Mandamus & Other 550 Civil Rights 555 Prison Condition 895 Freedom of Information Act
290 All Other Real Property 900 Appeal of Fee Determination Under Equal Access to Justice
950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)
X 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. 1973
Brief description of cause:
Minority vote dilution

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMAND \$
CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY
(See instructions):
JUDGE Kathleen O'Malley
DOCKET NUMBER 1:06cv01652

DATE 12/02/2008
SIGNATURE OF ATTORNEY OF RECORD /s/ SONYA L. SACKS

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

I. Civil Categories: (Please check one category only).

- 1. [checked] General Civil
2. [] Administrative Review/Social Security
3. [] Habeas Corpus Death Penalty

*If under Title 28, §2255, name the SENTENCING JUDGE: _____

CASE NUMBER: _____

II. RELATED OR REFILED CASES. See LR 3.1 which provides in pertinent part: "If an action is filed or removed to this Court and assigned to a District Judge after which it is discontinued, dismissed or remanded to a State court, and subsequently refiled, it shall be assigned to the same Judge who received the initial case assignment without regard for the place of holding court in which the case was refiled. Counsel or a party without counsel shall be responsible for bringing such cases to the attention of the Court by responding to the questions included on the Civil Cover Sheet."

This action is [checked] RELATED to another PENDING civil case. This action is [] REFILED pursuant to LR 3.1.

If applicable, please indicate on page 1 in section VIII, the name of the Judge and case number.

III. In accordance with Local Civil Rule 3.8, actions involving counties in the Eastern Division shall be filed at any of the divisional offices therein. Actions involving counties in the Western Division shall be filed at the Toledo office. For the purpose of determining the proper division, and for statistical reasons, the following information is requested.

ANSWER ONE PARAGRAPH ONLY. ANSWER PARAGRAPHS 1 THRU 3 IN ORDER. UPON FINDING WHICH PARAGRAPH APPLIES TO YOUR CASE, ANSWER IT AND STOP.

(1) Resident defendant. If the defendant resides in a county within this district, please set forth the name of such county

COUNTY:

Corporation For the purpose of answering the above, a corporation is deemed to be a resident of that county in which it has its principal place of business in that district.

(2) Non-Resident defendant. If no defendant is a resident of a county in this district, please set forth the county wherein the cause of action arose or the event complained of occurred.

COUNTY:

(3) Other Cases. If no defendant is a resident of this district, or if the defendant is a corporation not having a principle place of business within the district, and the cause of action arose or the event complained of occurred outside this district, please set forth the county of the plaintiff's residence.

COUNTY:

IV. The Counties in the Northern District of Ohio are divided into divisions as shown below. After the county is determined in Section III, please check the appropriate division.

EASTERN DIVISION

- [] AKRON (Counties: Carroll, Holmes, Portage, Stark, Summit, Tuscarawas and Wayne)
[checked] CLEVELAND (Counties: Ashland, Ashtabula, Crawford, Cuyahoga, Geauga, Lake, Lorain, Medina and Richland)
[] YOUNGSTOWN (Counties: Columbiana, Mahoning and Trumbull)

WESTERN DIVISION

- [] TOLEDO (Counties: Allen, Auglaize, Defiance, Erie, Fulton, Hancock, Hardin, Henry, Huron, Lucas, Marion, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca VanWert, Williams, Wood and Wyandot)

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

ATTACHMENT TO CIVIL COVER SHEET
United States v. City of Euclid City School District, et. al

I. (C) Attorneys (Firm Name, Address and Telephone Number)

FOR PLAINTIFF UNITED STATES OF AMERICA:

UNITED STATES DEPARTMENT OF JUSTICE

CHRISTOPHER COATES

Chief

SONYA L. SACKS

Trial Attorney

Voting Section

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DAVID LAMBERT
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p4ww@cuyahogacounty.us

WAIVER OF SERVICE OF SUMMONS

TO: Sonya L. Sacks, U.S. Department of Justice, Civil Rights Division, Voting Section
(NAME OF PLAINTIFF'S ATTORNEY OR UNREPRESENTED PLAINTIFF)

I, Euclid City School District Board of Education, acknowledge receipt of your request
(DEFENDANT NAME)

that I waive service of summons in the action of Euclid City School District Board of Educ., et. al.
(CAPTION ACTION)

which is case number in the United States District Court
(DOCKET NUMBER)

for the District of Ohio (Northern)

I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 is not served upon you within 60 days after
(Date Request Was Sent)

or within 90 days after that date if the request was sent outside the United States.

(DATE)

(SIGNATURE)

Printed/Typed Name: David Kane Smith

As Attorney of Euclid City Sch. Dist. Bd. of Educ.
(TITLE) (CORPORATE DEFENDANT)

Duty to Avoid unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.

WAIVER OF SERVICE OF SUMMONS

TO: Sonya L. Sacks, U.S. Department of Justice, Civil Rights Division, Voting Section
(NAME OF PLAINTIFF'S ATTORNEY OR UNREPRESENTED PLAINTIFF)

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(DEFENDANT NAME)

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for the District of Ohio (Northern)

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I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 is not served upon you within 60 days after _____
(DATE REQUEST WAS SENT)

or within 90 days after that date if the request was sent outside the United States.

(DATE)

(SIGNATURE)

Printed/Typed Name: Frederick Whatley

As Attorney of Cuyahoga County Brd of Elect.
(TITLE) (CORPORATE DEFENDANT)

Duty to Avoid unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

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