## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH DAKOTA SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHAMBERLAIN SCHOOL DISTRICT; JIM ANDERSON, JAY BLUM, JERRI ANN HAAK, ERIC MILLER, JOEL PAZOUR, ANNETTE PRIEBE, and KEITH REUER, in their official capacities as members of the Chamberlain School Board,

Defendants.

Civil Action No. 4:20-cv-4084

### **COMPLAINT**

The United States of America, plaintiff herein, alleges:

- 1. The Attorney General files this action pursuant to Section 2 and Section 12(d) of the Voting Rights Act, 52 U.S.C. §§ 10301 and 10308(d).
- 2. Section 2 of the Voting Rights Act prohibits enforcement of any voting qualification, prerequisite to voting, standard, practice, or procedure that results in the denial or abridgment of the right to vote on account of race, color, or language minority status.
- 3. In this action, the United States challenges the at-large method of electing members of the school board of the Chamberlain School District because it violates Section 2 of the Voting Rights Act.

#### **JURISDICTION AND VENUE**

- 4. This Court has original jurisdiction of this action under 28 U.S.C. §§ 1331, 1345, and 2201(a) and 52 U.S.C. § 10308(f).
  - 5. Venue is proper in this Court under 28 U.S.C. §§ 122(2) and 1391(b).

#### **PARTIES**

- 6. The Voting Rights Act authorizes the Attorney General to file a civil action on behalf of the United States of America seeking injunctive, preventive, and permanent relief for violations of Section 2 of the Act. 52 U.S.C. § 10308(d).
- 7. The Chamberlain School District is a political and geographical subdivision of the State of South Dakota; it encompasses portions of Brule, Buffalo, and Lyman Counties.
- 8. Jim Anderson, Jay Blum, Jerri Ann Haak, Eric Miller, Joel Pazour, Annette Priebe, and Keith Reuer are the current members of the Chamberlain School Board, which is the governing body of the Chamberlain School District. S.D. Codified Laws §§ 13-8-1, 13-8-2; Chamberlain School District 07-1 Bd. Policies ("CSD Policy") §§ BB, BBA. They are sued in their official capacities.

#### **ALLEGATIONS**

9. According to the 2010 Census, the Chamberlain School District had a total population of 6,044, of whom 3,763 (62.3%) were white, 2,138 (35.4%) were American Indian/Alaska Native, and 139 (2.3%) were members of other racial groups. The total votingage population was 4,297, of whom 2,981 (69.4%) were white, 1,244 (29.0%) were American Indian/Alaska Native, and 71 (1.7%) were members of other racial groups.

- 10. The Chamberlain School Board is composed of seven members elected on an atlarge basis in non-partisan contests by all voters in the Chamberlain School District. CSD Policy § BB.
- 11. Members of the Chamberlain School Board serve staggered, three-year terms. Every year, two or three seats on the Chamberlain School Board are open. CSD Policy §§ BB, BBB; *see also* S.D. Codified Laws § 13-8-2. No election is held if seats are uncontested. S.D. Codified Laws § 13-7-9.
- 12. South Dakota law does not mandate the current at-large method of electing the Chamberlain School Board. *See* S.D. Codified Laws § 13-8-7.1.
- 13. The American Indian population of the Chamberlain School District is sufficiently large and geographically compact to constitute a majority of the voting-age population in two single-member districts under an illustrative seven-district plan.
- 14. School board elections are marked by a pattern of racially polarized voting. The American Indian population in the Chamberlain School District is politically cohesive in those elections while the white population votes sufficiently as a bloc in those elections to usually defeat the preferred candidate of American Indian voters.
- 15. Since at least 2007, only one American Indian candidate has won an election for the Chamberlain School Board.
- 16. American Indian residents in South Dakota have historically suffered from official discrimination affecting the right to vote.
- 17. Significant socioeconomic disparities exist between white and American Indian residents of the Chamberlain School District in areas such as education and employment. Such

disparities hinder the current ability of American Indian citizens in the School District to participate effectively in the political process.

- 18. The Chamberlain School District's method of election is characterized by the use of practices and procedures that have the result of impairing American Indian electoral opportunities. These include, but are not limited to, at-large elections, staggered terms, and off-year elections.
- 19. The at-large method of electing the Chamberlain School Board dilutes the voting strength of American Indian citizens.

#### **CAUSE OF ACTION**

- 20. Under the totality of circumstances, the current at-large method of electing the Chamberlain School Board violates Section 2 of the Voting Rights Act, 52 U.S.C. § 10301, because it results in the Chamberlain School District's American Indian citizens having less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.
- 21. Unless enjoined by order of this Court, Defendants will continue to violate Section 2 of the Voting Rights Act by administering, implementing, and conducting future elections for the Chamberlain School Board using an at-large method of election.

#### PRAYER FOR RELIEF

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

- (1) Declaring that the at-large method of electing the Chamberlain School Board violates Section 2 of the Voting Rights Act, 52 U.S.C. § 10301;
- (2) Enjoining Defendants, their agents and successors in office, and all persons acting in concert with them from administering, implementing, or conducting any future

elections for the Chamberlain School Board under the at-large method of election;

- Ordering Defendants to devise and implement a method of election for the

  Chamberlain School Board that complies with Section 2 of the Voting Rights Act;

  and
- (4) Granting such additional relief as the interests of justice may require.

Date: May 27, 2020

RONALD A. PARSONS, JR. United States Attorney District of South Dakota

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ALISON J. RAMSDELL Assistant U.S. Attorney Civil Rights Coordinator

325 S. First Avenue Sioux Falls, SD 57104 ERIC S. DREIBAND Assistant Attorney General Civil Rights Division

ELLIOTT M. DAVIS Special Counsel

T. CHRISTIAN HERREN, JR. ROBERT S. BERMAN

M. Eit O Connor

MAURA EILEEN O'CONNOR

ELIZABETH M. RYAN

Attorneys, Voting Section

Civil Rights Division

U.S. Department of Justice

150 M Street NE/8.926

Washington, D.C. 20530

Eileen.O'Connor2@usdoj.gov

202-305-2526

JS 44 (Rev 09/19)

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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 NEXT PAGE OF THIS FORM.)

purpose of initiating the civil de	ocket sheet. (SEE INSTRUC	TIONS ON NEXT PAGE C	OF THIS FO	PRM.)			
I. (a) PLAINTIFFS				DEFENDANTS Chamberlain Scho	ol Dietrict Lim Anderso	on Jay Rlum Jerri ∆nn Haak	
United States of America				Chamberlain School District, Jim Anderson, Jay Blum, Jerri Ann Haak Eric Miller, Joel Pazour, Annette Priebe, and Keith Reuer, in their			
4)				official capacities as members of the Chamberlain School Board			
(b) County of Residence of First Listed Plaintiff  (EXCEPT IN U.S. PLAINTIFF CASES)				County of Residence	of First Listed Defendant (IN U.S. PLAINTIFF CASES)	<u>Brule, Buffalo &amp; Lyman, S</u> [	
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(c) Attorneys (Firm Name, Address, and Telephone Number)				Attorneys (If Known)			
see attached				Rodney Freeman Churchill, Manolis, Freeman, Kludt & Burns, LLP			
						176, Huron, S.D. 57350	
II. BASIS OF JURISDI	ICTION (Place an "X" in C	One Box Only)	III. CI	TIZENSHIP OF P	RINCIPAL PARTIES	${f S}$ (Place an "X" in One Box for Plaintiff	
X 1 US Government □ 3 Federal Question				(For Diversity Cases Only) P1	TF DEF	and One Box for Defendant) PTF DEF	
Plaintiff	(U.S. Government Not a Party)		Citize		1	Principal Place	
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□ 120 Marine	□ 310 Airplane	☐ 365 Personal Injury -		of Property 21 USC 881	☐ 423 Withdrawal	□ 376 Qui Tam (31 USC	
☐ 130 Miller Act ☐ 140 Negotiable Instrument	☐ 315 Airplane Product Liability	Product Liability  367 Health Care/	□ 69	0 Other	28 USC 157	3729(a)) ☐ 400 State Reapportionment	
150 Recovery of Overpayment & Enforcement of Judgment	☐ 320 Assault, Libel & Slander	Pharmaceutical Personal Injury			PROPERTY RIGHTS  ☐ 820 Copyrights	☐ 410 Antitrust ☐ 430 Banks and Banking	
☐ 151 Medicare Act	☐ 330 Federal Employers'	Product Liability			□ 830 Patent	☐ 450 Commerce	
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(Excludes Veterans)  ☐ 153 Recovery of Overpayment	☐ 345 Marine Product Liability	Liability PERSONAL PROPEI	PTV T	LABOR	□ 840 Trademark SOCIAL SECURITY	Corrupt Organizations  480 Consumer Credit	
of Veteran's Benefits	☐ 350 Motor Vehicle	370 Other Fraud		0 Fair Labor Standards	□ 861 HIA (1395ff)	(15 USC 1681 or 1692)	
☐ 160 Stockholders' Suits ☐ 190 Other Contract	☐ 355 Motor Vehicle Product Liability	☐ 371 Truth in Lending ☐ 380 Other Personal	<b>1</b> 72	Act O Labor/Management	□ 862 Black Lung (923) □ 863 DIWC/DIWW (405(g))	☐ 485 Telephone Consumer Protection Act	
☐ 195 Contract Product Liability ☐ 196 Franchise	☐ 360 Other Personal Injury	Property Damage ☐ 385 Property Damage		Relations O Railway Labor Act	☐ 864 SSID Title XVI ☐ 865 RSI (405(g))	☐ 490 Cable/Sat TV ☐ 850 Securities/Commodities/	
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210 Land Condemnation	☐ 440 Other Civil Rights	Habeas Corpus:		1 Employee Retirement	☐ 870 Taxes (U.S. Plaintiff	☐ 893 Environmental Matters	
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<ul><li>240 Torts to Land</li><li>245 Tort Product Liability</li></ul>	☐ 443 Housing/ Accommodations	Sentence  ☐ 530 General			26 USC 7609	☐ 896 Arbitration ☐ 899 Administrative Procedure	
☐ 290 All Other Real Property	☐ 445 Amer w/Disabilities -	☐ 535 Death Penalty	= 4	IMMIGRATION	1	Act/Review or Appeal of	
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V. ORIGIN (Place an "X" is	n One Box Only)	•	-			<u>.                                      </u>	
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VI. CAUSE OF ACTION	Voting Rights Act	t, 52 U.S.C. § 1030	re filing (1 1	Do not cite jurisdictional stat	utes unless diversity):		
	Drief description of ca	ause: er Section 2 of the '	Voting R	ights Act			
VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.			N D	CHECK YES only if demanded in complaint:  JURY DEMAND:			
VIII. RELATED CASI							
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# **Attachment to Civil Cover Sheet**

# Section I(c) – Attorneys for the United States of America

T. Christian Herren, Jr.

Robert S. Berman

Maura Eileen O'Connor

Elizabeth M. Ryan

U.S. Department of Justice, Civil Rights Division

150 M Street NE/8.926

Washington, D.C. 20530

Eileen.O'Connor2@usdoj.gov

202-305-2526

Alison J. Ramsdell

U.S. Department of Justice, United States Attorney's Office for the District of South Dakota

325 S. First Avenue

Sioux Falls, S.D. 57104

605-357-2338