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14 UNITED STATES DISTRICT COURT  
15 DISTRICT OF ARIZONA  
16 TUCSON DIVISION

17 United States of America,  
18 Plaintiff,

19 v.

20 COCHISE COUNTY, ARIZONA;  
21 COCHISE COUNTY BOARD OF  
SUPERVISORS; CHRISTINE RHODES,  
22 in her official capacity as Cochise County  
Recorder; THOMAS SCHELLING, in his  
23 official capacity as Cochise County  
Elections and Special Districts Director,

24 Defendants.

CASE NO.

**THREE-JUDGE COURT**

**COMPLAINT**

25  
26 Plaintiff United States of America alleges:

1           1.     The Attorney General files this action pursuant to Sections 203 and 204 of the  
2     Voting Rights Act of 1965, as amended, 42 U.S.C. §§ 1973aa-1a and 1973aa-2; Sections  
3     302 and 401 of the Help America Vote Act of 2002 ("HAVA"), 42 U.S.C. §§ 15482 and  
4     15511; and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

5           2.     This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and  
6     1345; 42 U.S.C. § 1973aa-2; 42 U.S.C. § 15511 and 28 U.S.C. § 2201. In accordance with  
7     the provisions of 42 U.S.C. § 1973aa-2 and 28 U.S.C. § 2284, the United States' claim  
8     brought under Section 203 of the Voting Rights Act of 1965, as amended ("Section 203"),  
9     must be heard and determined by a court of three judges. The United States' claim brought  
10    under HAVA may be heard and determined by one judge.

11          3.     Venue is proper in this court as the events relevant to this action occurred in  
12    Cochise County, which is located within the territory of the Tucson Division of the United  
13    States District Court for the District of Arizona.

14          4.     Defendant COCHISE COUNTY is a political and geographical subdivision  
15    of the State of Arizona.

16          5.     Defendant COCHISE COUNTY BOARD OF SUPERVISORS is the  
17    County's legislative body and is responsible for establishing county policies and the overall  
18    administration of the Cochise County government, including but not limited to the funding  
19    of the offices of the Recorder and the Elections and Special Districts Division, their  
20    personnel, and their supplies.

21          6.     Defendant CHRISTINE RHODES serves as Cochise County Recorder. As  
22    Cochise County Recorder, she is responsible for the administration of voter registration,  
23    early and absentee voting, and other aspects of elections and voting procedures in Cochise  
24    County. Defendant RHODES is sued in her official capacity.

25          7.     Defendant THOMAS SCHELLING serves as the Director of Cochise  
26    County's Elections and Special Districts Division. As Cochise County Elections and

1 Special Districts Director, he is responsible for the administration of election day activities,  
2 including the hiring, assignment and training of poll workers, as well as other aspects of  
3 elections and voting procedures in Cochise County. Defendant SCHELLING is sued in his  
4 official capacity.

5 8. According to the 2000 Census, Cochise County has a total population of  
6 117,755, of whom 36,195 (30.7%) are Hispanic. Cochise County's total citizen voting age  
7 population is 80,670, of whom 18,095 (22.4%) are Hispanic. Of Hispanic voting age  
8 citizens in Cochise County, 4,325 (23.9%) are limited-English proficient.

9 9. The Census Bureau has designated Defendant Cochise County as subject to  
10 the bilingual election requirements of Section 203 for Hispanics. 67 Fed. Reg. 48871 (July  
11 26, 2002). The determination that Cochise County is covered by Section 203 for Hispanics  
12 is final and is not subject to judicial review. See 42 U.S.C. § 1973aa-1a(b)(4).

13 10. Since July 26, 2002, Cochise County has been required, pursuant to Section  
14 203, to provide effective language assistance to limited-English proficient Hispanic voters,  
15 see 67 Fed. Reg. 48871 (July 26, 2002), and previously was so required from September 9,  
16 1975 until September 18, 1992, see 40 Fed. Reg. 41827 (Sept. 9, 1975); 49 Fed. Reg. 25887  
17 (June 25, 1984); 57 Fed. Reg. 43213 (Sept. 18, 1992).

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

22 12. Defendant Cochise County has been subject to the requirements of Section  
23 302 of HAVA since January 1, 2004.

24 13. Pursuant to Section 302 of HAVA, Cochise County is required, inter alia, to  
25 post certain election-related information in polling sites during elections for federal office.  
26 See 42 U.S.C. § 15482(b).

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FIRST CAUSE OF ACTION

14. Defendants have failed to provide complete and accurate Spanish translations of all election-related materials produced in English, including, but not limited to, information about voter registration, voting absentee, voting early, voting machine instructions, and other election-related information.

15. Defendants have failed to provide effective election-related information and assistance in Spanish to limited-English proficient Hispanic voters by failing to recruit, appoint, train, and assign sufficient bilingual poll officials on election day to provide such assistance.

16. Defendants have failed to provide certain election-related information, including but not limited to information publicizing elections, registration deadlines, and early and absentee voting options, in a manner that provides limited-English proficient Hispanic citizens an equal and effective opportunity to be informed about election-related activities.

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

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

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SECOND CAUSE OF ACTION

19. In the September 7, 2004 primary election and the November 2, 2004 general election, Defendants failed to post in each polling place all of the voting information required by HAVA, including but not limited to information regarding the date of the election, federal and state voting laws, and first-time voters who registered by mail.

1           20.    The September 7, 2004 primary election and the November 2, 2004 general  
2 election were elections for federal office.

3           21.    Defendants' actions as described above in Paragraph 19 constitute a violation  
4 of Section 302 of HAVA, 42 U.S.C. § 15482.

5           22.    Unless enjoined by this Court, Defendants will continue to violate Section 302  
6 of HAVA by failing to provide to voters the information required under this provision.

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8                                   PRAYER FOR RELIEF

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

- 10          1.    Declaring that Defendants have failed to provide Spanish-language election  
11 information and assistance necessary to those who require it in violation of  
12 Section 203;
- 13          2.    Declaring that Defendants failed to post necessary voter information materials  
14 at each polling place during elections for federal office, as required by  
15 Section 302 of HAVA;
- 16          3.    Enjoining Defendants, their employees, agents and successors in office, and  
17 all persons acting in concert with them, from failing to provide Spanish-  
18 language election information and assistance to persons with limited-English  
19 proficiency as required by Section 203 and from violating the provisions of  
20 HAVA;
- 21          4.    Ordering Defendants to devise and implement a remedial plan to ensure that  
22 limited-English proficient Hispanic citizens are able to participate in all  
23 phases of the electoral process as required by Section 203 for all future  
24 elections;
- 25          5.    Authorizing the appointment of federal examiners in Cochise County  
26 pursuant to Section 3(a) of the Voting Rights Act, 42 U.S.C. § 1973a(a); and

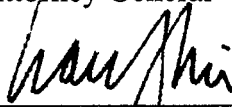
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6. Ordering Defendants to comply with HAVA's requirements regarding the posting of information at polling places during elections for federal office.

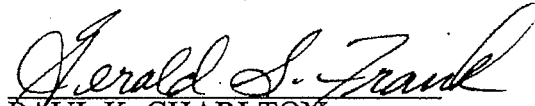
Plaintiff further prays that this Court order such additional relief as the interests of justice may require, together with the costs and disbursements in maintaining this action.

1 Dated: June 16, 2006.

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