

FILED

2005 JUL 14 AM 11:23

CLERK, U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

BY

1 BRADLEY J. SCHLOZMAN  
Acting Assistant Attorney General

2 DEBRA WONG YANG, United States Attorney  
3 MICHELE C. MARCHAND  
Assistant United States Attorney (#93390)  
4 United States Courthouse  
312 North Spring Street, 14th floor  
5 Los Angeles, California 90012  
Telephone: (213) 894-2727  
6 Facsimile: (213) 894-7177

7 JOHN TANNER, Chief  
AVNER SHAPIRO, Trial Attorney  
8 JOHN "BERT" RUSS, Trial Attorney (#192471)  
ALBERTO RUISANCHEZ, Trial Attorney  
9 Voting Section  
Civil Rights Division  
10 United States Department of Justice  
950 Pennsylvania Ave., N.W. - NWB-7254  
11 Washington, D.C. 20530  
Telephone: (202) 305-1840  
12 Facsimile: (202) 307-3961

13 Counsel for Plaintiff  
United States of America

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

17 UNITED STATES OF AMERICA, )  
18 )  
19 Plaintiff, )  
20 v. )  
21 CITY OF ROSEMEAD, CALIFORNIA; )  
22 THE ROSEMEAD CITY COUNCIL; )  
23 BILL CROWE in his official )  
24 capacity as Rosemead )  
City Manager; and NANCY )  
25 VALDERRAMA in her official )  
capacity as Rosemead City )  
Clerk, )  
Defendants. )

CV05-5131 GAF

NO.

(MANx)

THREE-JUDGE COURT

COMPLAINT

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

2 1. The Attorney General files this action pursuant to  
3 Section 203 of the Voting Rights Act of 1965 ("Section 203"), as  
4 amended, 42 U.S.C. § 1973aa-1a; 42 U.S.C. § 1973aa-2; and  
5 28 U.S.C. § 2201.

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

13 3. Defendant THE CITY OF ROSEMEAD ("Rosemead" or "the  
14 City") is a political and geographical subdivision of the County  
15 of Los Angeles and the State of California.

16 4. Defendant THE ROSEMEAD CITY COUNCIL is, pursuant to  
17 state law, Rosemead's local governing body.

18 5. Defendants JAY IMPERIAL, GARY TAYLOR, MARGARET CLARK,  
19 JOHN TRAN, and JOHN NUNEZ are members of the Rosemead City  
20 Council. Each of these Defendants resides in Rosemead and is  
21 sued in his or her official capacity.

22 6. Defendant BILL CROWE is the Rosemead City Manager. In  
23 this capacity, defendant CROWE has responsibilities for the  
24 administration of city affairs, including responsibilities  
25 relating to the administration of voting and elections in  
26 Rosemead. Defendant CROWE resides in Rosemead, and is sued in  
27 his official capacity.

1           7. Defendant NANCY VALDERRAMA is Rosemead's City Clerk.  
2 In this capacity, Defendant VALDERRAMA has responsibilities  
3 concerning the administration of voting and elections in  
4 Rosemead. Defendant VALDERRAMA resides in Rosemead, and is sued  
5 in her official capacity.

6           8. According to the 2000 Census, the City of Rosemead has  
7 a total population of 53,280, of whom 16,862 (31.6%) are  
8 Chinese, 6,945 (13.0%) are Vietnamese, and 21,846 (41.0%) are  
9 Hispanic. The City has a total voting age population ("VAP") of  
10 38,685, of whom 12,729 (32.9%) are Chinese, 5,236 (13.5%) are  
11 Vietnamese, and 14,571 are Hispanic (37.7%). The total citizen  
12 voting age population ("CVAP") for the City is 25,550, of whom  
13 8,196 (32.1%) are Chinese, 3,305 (12.9%) are Vietnamese, and  
14 8,921 (34.9%) are Hispanic.

15           9. The Census Bureau has designated the County of Los  
16 Angeles as subject to the requirements of Section 203 of the  
17 Voting Rights Act for Chinese, Vietnamese, Spanish, Korean,  
18 Japanese, and Filipino. See 42 U.S.C. § 1973aa-1a(b)(2); see  
19 also 67 Fed. Reg. 48,871 (July 26, 2002). As a political unit  
20 within the County of Los Angeles, the City of Rosemead is also  
21 subject to the requirements of Section 203 for these languages.  
22 See 28 C.F.R. § 55.9. The coverage determination of the Census  
23 Bureau is final and non-reviewable. See 42 U.S.C. § 1973aa-  
24 1a(b)(4). The City currently has significant numbers of voters  
25 in the Chinese-, Vietnamese-, and Spanish-speaking communities  
26 who need assistance in the election process in languages other  
27 than English.

28

1           10. As a political subdivision of Los Angeles County,  
2 Rosemead has been continuously subject to Section 203's  
3 requirements to provide multilingual elections in Spanish,  
4 Chinese, and Vietnamese since September 18, 1992. See 57 Fed.  
5 Reg. 43,213 (Sept. 18, 1992); 67 Fed. Reg. 48,871 (July 26,  
6 2002). The United States Department of Justice has directly  
7 notified election officials, including Rosemead and Los Angeles  
8 County election officials, of their jurisdictions'  
9 responsibilities under Section 203, and Los Angeles County  
10 separately has provided such information to City of Rosemead  
11 officials.

12           11. Because Rosemead is subject to the requirements of  
13 Section 203, "any registration or voting notices, forms,  
14 instructions, assistance, or other materials or information  
15 relating to the electoral process, including ballots" that  
16 Defendants provide in English must also be furnished in Spanish,  
17 Chinese, and Vietnamese for its Spanish-, Chinese-, and  
18 Vietnamese-speaking voters, respectively. 42 U.S.C. § 1973aa-  
19 1a(c).

#### 20   CAUSE OF ACTION

21           12. In conducting elections in Rosemead, Defendants have  
22 failed to furnish effectively, in the Spanish, Chinese, and  
23 Vietnamese languages, the information and assistance necessary  
24 to afford the significant number of Spanish, Chinese, and  
25 Vietnamese citizens with limited English proficiency residing  
26 within Rosemead a fair opportunity for effective participation  
27 in the electoral process, including, but not limited to, the  
28 following:

1           A.    failing to recruit, appoint, train, and maintain  
2 an adequate pool of bilingual poll officials capable of  
3 providing language assistance to Chinese and Vietnamese citizens  
4 with limited English proficiency, despite being provided the  
5 names of experienced bilingual poll workers by Los Angeles  
6 County;

7           B.    failing to translate fully into Spanish, Chinese,  
8 and Vietnamese election related materials used at Rosemead's  
9 election sites, including but not limited to, the official  
10 ballot, polling booth voting instructions, a notice reminding  
11 voters to "Remove All 'Hanging Chads,'" signs used to identify  
12 polling place locations, a notice describing the rights of  
13 voters, a telephone card informing voters of a telephone number  
14 to use for acquiring precinct location and other voting related  
15 information, and provisional and absentee ballot materials;

16           C.    failing to translate into Chinese and Vietnamese  
17 pre-election related publicity, notices, and announcements,  
18 including, but not limited to, information contained in a legal  
19 notice publicizing the City election; notices concerning date,  
20 time, and place of elections; notices concerning candidates for  
21 election; and notices to voters of polling place assignments;

22           D.    failing to translate into Spanish pre-election  
23 related publicity, notices, and announcements, including, but  
24 not limited to, notices concerning date, time, and place of  
25 elections; notices concerning candidates for election; and  
26 notices of voter polling place assignments; and

27           E.    failing to provide, in a timely manner, sample  
28 ballot and voter information pamphlets translated into Chinese

1 and Vietnamese to Chinese and Vietnamese voters who had formally  
2 requested assistance and materials in their own languages,  
3 thereby depriving these voters of an opportunity to vote by  
4 mail.

5 13. Defendants' failure to provide the City of Rosemead's  
6 Spanish, Chinese, and Vietnamese voters with limited English  
7 proficiency with election information and assistance in their  
8 respective languages, as described above, constitutes a  
9 violation of Section 203.

10 14. Unless enjoined by this Court, Defendants will  
11 continue to violate Section 203 by failing to provide Rosemead's  
12 Spanish, Chinese, and Vietnamese citizens with limited English  
13 proficiency with the Spanish, Chinese, and Vietnamese language  
14 election information and assistance necessary for their  
15 political participation.

16 **PRAYER FOR RELIEF**

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

- 19 (1) Declaring that Defendants have failed to provide  
20 election information and assistance necessary to those  
21 who require it in Spanish, Chinese, and Vietnamese in  
22 violation of Section 203 of the Voting Rights Act,  
23 42 U.S.C. § 1973aa-1a;
- 24 (2) Enjoining Defendants, their employees, agents, and  
25 successors in office, and all persons acting in  
26 concert with them, from failing to provide Spanish,  
27 Chinese, and Vietnamese-language election information  
28

1 and assistance to persons with limited English  
2 proficiency as required by Section 203,  
3 42 U.S.C. § 1973aa-1a;

4 (3) Requiring Defendants to devise and implement a  
5 remedial plan to ensure that Spanish, Chinese, and  
6 Vietnamese citizens with limited English proficiency  
7 are able to participate in all phases of the electoral  
8 process as required by Section 203 of the Voting  
9 Rights Act, 42 U.S.C. § 1973aa-1a;

10 (4) Requiring Defendants to devise and implement a  
11 remedial plan to ensure that, in the event that the  
12 need for assistance arises in other languages subject  
13 to the requirements of Section 203, the City will  
14 provide election related information and materials to  
15 residents needing such assistance.

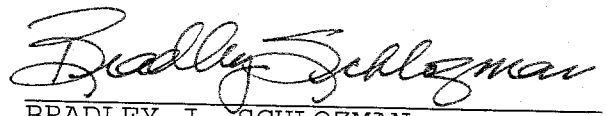
16 (5) Requiring Defendants to publicize the remedial plan in  
17 such a manner as to ensure its widespread  
18 dissemination to Rosemead's voters; and

19 (6) Authorizing the appointment of federal examiners for  
20 elections held in Rosemead pursuant to Section 3(a) of  
21 the Voting Rights Act, 42 U.S.C. § 1973a(a), through  
22 August 6, 2007.

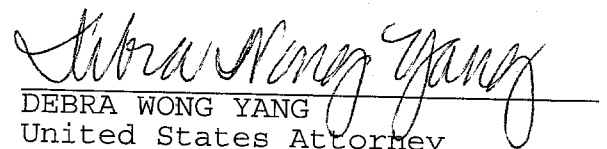
23 Plaintiff further prays that this Court order such  
24 additional relief as the interests of justice may require,  
25 together with the costs and disbursements in maintaining this  
26 action.

1 Date: the 14<sup>th</sup> day of July, 2005

2  
3 ALBERTO GONZALES  
4 Attorney General

5 

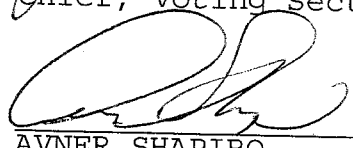
6 BRADLEY J. SCHLOZMAN  
7 Acting Assistant Attorney General  
8 Civil Rights Division

9 

10 DEBRA WONG YANG  
11 United States Attorney

12 

13 JOHN TANNER  
14 Chief, Voting Section

15 

16 AVNER SHAPIRO  
17 JOHN "BERT" RUSS  
18 ALBERTO RUISANCHEZ  
19 Trial Attorneys, Voting Section  
20 U.S. Department of Justice  
21 Civil Rights Division  
22 950 Pennsylvania Avenue NW  
23 NWB-7254  
24 Washington, D.C. 20530  
25 (202) 305-1840  
26  
27  
28