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U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: DEPUTY

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16 IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA
17

18 UNITED STATES OF AMERICA,) CIVIL ACTION NO.
19 Plaintiff,) '04 CV 1273 IEG (JMA)
20 v.) COMPLAINT
21 SAN DIEGO COUNTY, CALIFORNIA;)
22 SALLY MCPHERSON, REGISTRAR OF)
23 VOTERS, in her official)
capacity; and the SAN DIEGO)
24 COUNTY BOARD OF SUPERVISORS,)
Defendants.)
25

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

27 1. The Attorney General files this action pursuant to
28 Section 203 of the Voting Rights Act of 1965 ("Section 203"), as

1 amended, 42 U.S.C. §1973aa-1a; 42 U.S.C. §1973aa-2; and 28
2 U.S.C. §2201.

3 2. Jurisdiction: The Court has jurisdiction of this
4 action pursuant to 28 U.S.C. §1345 and 42 U.S.C. §1973aa-2. In
5 accordance with the provisions of 42 U.S.C. §1973aa-2 and 28
6 U.S.C. §2284, the Section 203 claim must be heard and determined
7 by a court of three judges.

8 3. Defendant SAN DIEGO COUNTY is a political and
9 geographical subdivision of the State of California.

10 4. Defendant SALLY MCPHERSON is the Registrar of Voters
11 of San Diego County. In her capacity as Registrar of Voters,
12 Defendant MCPHERSON has responsibilities concerning the
13 administration of voting and elections in San Diego County.
14 Defendant McPherson is a resident of San Diego County, and is
15 being sued in her official capacity as Registrar of Voters.

16 5. Defendant SAN DIEGO COUNTY BOARD OF SUPERVISORS is the
17 primary budgetary authority for the County and for the Registrar
18 of Voters of San Diego County.

19 6. According to the 2000 Census, San Diego County had a
20 total population of 2,813,833 persons, of whom 750,965 (26.7%)
21 were Hispanic persons and of whom 121,147 (4.3%) were of Filipino
22 heritage; and a total citizen voting-age population of 2,093,080
23 persons, of whom 476,655 (22.7%) were Hispanic persons and of
24 whom 103,325 (4.9%) were of Filipino heritage.

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1 7. According to the 2000 Census, 65,520(23%) of Hispanic
2 voting-age citizens and 17,155(22%) of Filipino voting age
3 citizens in San Diego County had limited English proficiency.

4 8. San Diego County is subject to the requirements of
5 Section 203 for the Spanish and Filipino (Tagalog) languages, as
6 designated by the Director of the Census. The Director
7 determined, based on the 2000 Census, that more than 10,000 of
8 San Diego County's voting-age citizens are members of a single
9 language minority group (Spanish heritage and Filipino,
10 respectively) who do not speak or understand English well enough
11 to participate in the English-language election process and have
12 an illiteracy rate that is higher than the national illiteracy
13 rate. 42 U.S.C. §1973aa-1a(b)(2). The determination of the
14 Census Bureau that San Diego County is covered by Section 203
15 for Spanish and Tagalog is final and non-reviewable. 42 U.S.C.
16 §1973aa-1a(b)(4).

17 9. San Diego County has been continuously required under
18 Section 203 to provide bilingual elections in Spanish since
19 September 18, 1992, 57 Fed. Reg. 43213; and to those of
20 Filipino heritage since July 26, 2002, 67 Fed. Reg. 48871. In
21 San Diego, the dominant Filipino language is Tagalog.

22 10. The Department of Justice has directly notified
23 election officials, including Defendant McPherson, in all
24 jurisdictions covered under Section 203 and has provided
25 information regarding the requirements of Section 203.

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1 11. Because San Diego County is subject to the
2 requirements of Section 203, "any registration or voting notice,
3 forms, instructions, assistance, or other materials or
4 information relating to the electoral process, including
5 ballots" that Defendants provide in English must also be
6 furnished in Spanish and Tagalog. 42 U.S.C. §1973aa-1a.

7 12. Defendants have not provided effective election-
8 related materials, information, and/or assistance in Spanish or
9 Tagalog to limited English proficient Hispanic and Filipino
10 citizens as required by Section 203 of the Voting Rights Act,
11 including, but not limited to, the following:

12 a. failing to make available in Spanish and Tagalog
13 an audible version of the ballot for the March 2, 2004 federal
14 primary election such as was made available in English for
15 voters unable to read the ballot;

16 b. failing to provide an adequate pool of bilingual
17 poll officials capable of providing Hispanic and Filipino
18 citizens with effective language assistance at certain polling
19 places where such assistance was necessary;

20 c. failing to make available in Spanish and Tagalog
21 certain election-related announcements, instructions, and
22 notices at election sites;

23 d. failing to translate into Spanish and Tagalog
24 certain election-related information, including but not limited
25 to information contained in legal notices publicizing elections
26 and materials available to the general public on the Internet
27 website of the Registrar of Voters.

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

7 (4) Authorizing the appointment of Federal examiners for
8 elections held in San Diego County pursuant to Section
9 3(a) of the Voting Rights Act, 42 U.S.C. §1973a(a),
10 through December 31, 2006.

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

15 Dated this 23rd day of June, 2004.

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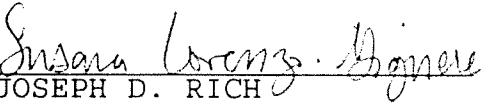
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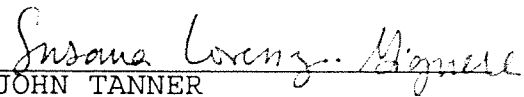
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