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13 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 Plaintiff,

19 v.

20 VENTURA COUNTY, CALIFORNIA;
21 PHIL SCHMIT, the COUNTY CLERK
& RECORDER, in his official
22 capacity; and the VENTURA
COUNTY BOARD OF SUPERVISORS,

23 Defendants.

) No. CV

) THREE-JUDGE COURT

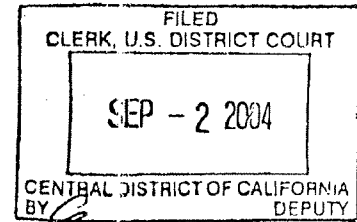
) PROPOSED CONSENT DECREE, ORDER,
) AND JUDGMENT

24 The United States of America filed this action pursuant to
25 Section 203 of the Voting Rights Act of 1965 ("Section 203"), as
26 amended, 42 U.S.C. § 1973aa-1a; 42 U.S.C. § 1973aa-2; and 28
27 U.S.C. § 2201, over violations of Section 203 of the Voting
28 Rights Act arising from Ventura County's election practices and

I HEREBY CERTIFY THAT THIS DOCUMENT WAS SERVED BY
FIRST CLASS MAIL POSTAGE PREPAID, TO ALL COUNSEL
(OR PARTIES) AT THEIR RESPECTIVE MOST RECENT ADDRESS OF
RECORD IN THIS ACTION ON THIS DATE.

DATED: 9/2/04

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✓ Priority
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JS-6

JS-2/JS-3

BY FAX DELIVERY ON PLAINTIFF/DEFENDANT (OR PARTIES)
AT THEIR RESPECTIVE MOST RECENT FAX NUMBER OF RECORD
IN THIS ACTION ON THIS DATE.

DATE: 9/2/04

CV04-6443 CAS VBRX

1 procedures as they affect Spanish-speaking citizens of the
2 County.

3 The Complaint's cause of action under Section 203 of the
4 Voting Rights Act, 42 U.S.C. § 1973aa-1a, must be heard and
5 determined by a court of three judges pursuant to 42 U.S.C.
6 § 1973aa-2 and 28 U.S.C. § 2284.

7 Ventura County has been subject to the requirements of
8 Section 203 of the Voting Rights Act, 42 U.S.C. § 1973aa-1a, for
9 the Spanish language since 1992. See 57 Fed. Reg. 43,213 (Sept.
10 18, 1992). In the most recent determination of coverage in
11 2002, the County's coverage was based on a determination by the
12 Director of the Census that more than 10,000 of the voting-age
13 citizens in the County are members of a single language minority
14 group (Spanish heritage or Hispanic) and are limited-English
15 proficient, and the illiteracy rate of these persons as a group
16 is higher than the national illiteracy rate. See 67 Fed. Reg.
17 48,871 (July 26, 2002). Since 1992, the Department has sent
18 Ventura County and other jurisdictions covered under Section 203
19 information regarding Section 203's requirements.

20 The Complaint states that Defendants have failed to comply
21 with the requirements of Section 203 for Spanish-speaking
22 citizens residing in Ventura County, California, by failing to
23 provide an adequate number of bilingual poll workers trained to
24 assist Spanish-speaking voters on election day, and by failing
25 to translate written election materials and information into
26 Spanish, including the official ballot, information posted on
27 the County Elections Division's website, and other materials.

28 To avoid protracted and costly litigation, the parties have

1 agreed that this lawsuit should be resolved through the terms of
2 this Consent Decree (hereinafter, the "Decree"). Accordingly,
3 the United States and Defendants hereby consent to the entry of
4 this Decree, as indicated by the signatures of counsel at the
5 end of this document. The parties waive a hearing and entry of
6 findings of fact and conclusions of law on all issues involved
7 in this matter.

8 Defendants are committed to comply fully with all of the
9 requirements of Section 203 in future elections and stipulate
10 that each provision of this Consent Decree is appropriate and
11 necessary.

12 Accordingly, it is hereby ORDERED, ADJUDGED, AND DECREED
13 that:

14 1. Defendants, their agents, employees, contractors,
15 successors, and all other persons representing the interests of
16 the Defendants are hereby PERMANENTLY ENJOINED from failing to
17 provide in Spanish any "registration or voting notices, forms,
18 instructions, assistance or other materials or information
19 relating to the electoral process, including ballots" that they
20 provide in English, as required by Section 203 of the Voting
21 Rights Act, as amended. 42 U.S.C. § 1973aa-1a(c). The terms of
22 this Decree apply to all federal, state, and local elections
23 administered by the County, including County-run elections for
24 city, school district, and other political subdivisions of the
25 County. Whenever Defendants enter into an election services
26 contract with any other entity, political subdivision, or
27 political party to conduct an election on behalf of that entity,
28 Defendants shall require such other entity to agree to abide by

1 the terms of this Decree as if such entity were a party to this
2 Decree with the United States, and consistent with the
3 responsibility of each such entity to comply fully with Section
4 203.

5 Translation of Election-Related Materials

6 2. All information that is disseminated by Ventura County
7 in English about "registration or voting notices, forms,
8 instructions, assistance, or other materials or information
9 relating to the electoral process, including ballots," 42 U.S.C.
10 § 1973aa-1a(c), shall also be provided in the Spanish language.
11 Defendants shall ensure that both English and Spanish language
12 election information, materials, and announcements provided by
13 Ventura County are made equally available.

14 3. Defendants shall employ trained and/or certified
15 translators who are familiar with Spanish-language election
16 terminology to produce all written translations, clearly and
17 accurately. The County shall develop and maintain a glossary of
18 Spanish election terminology in consultation with bilingual
19 members of local Hispanic community.

20 4. Defendants shall adopt a checklist identifying each
21 Spanish-language and bilingual material that the County makes
22 available to the public at each precinct. The checklist shall
23 include with respect to each item an attestation that the poll
24 workers at the precinct posted or made available to voters these
25 Spanish-language or bilingual materials, or a detailed written
26 explanation of why individual items had not been posted or were
27 not available. The inspectors for each precinct must complete
28 and sign this document before the inspector receives payment for

1 work in the election, subject to applicable state and federal
2 law. Defendants shall maintain a record of each such failure to
3 complete and sign the checklist.

4 Dissemination of Spanish-Language Information

5 5. Defendants shall ensure that Spanish-language
6 election information, materials, and announcements are provided
7 to the same extent as they are provided in English. Spanish-
8 language information shall be distributed in newspapers, radio,
9 and/or other media that exclusively or regularly publish or
10 broadcast information in Spanish. These announcements need not
11 be identical in all respect to English-language announcements,
12 but shall be in the form, frequency, and media best calculated
13 to achieve notice and understanding equal to that provided to
14 the English-speaking population and to provide substantially the
15 same information.

16 6. Subject to Paragraph 7 below, the official ballot and
17 absentee ballots shall be translated bilingually into both
18 English and Spanish. The new voting system that shall be
19 adopted by the County for all elections after November 2004
20 shall offer a bilingual ballot. Any electronic voting machines
21 adopted by the County shall offer Spanish-speaking voters the
22 readily apparent option of a Spanish ballot, and any audio
23 version of the ballot on such machines shall be available in
24 English and Spanish.

25 7. For the 2004 general election, the parties have
26 determined that, because of time constraints and unique
27 limitations of the County's software, which the County will be
28 replacing, bilingual ballots cannot be produced and provided

1 without unacceptable risk of disruption of the election.

2 Accordingly, consistent with the Attorney General's minority
3 language guidelines, the County shall do the following:

4 A. At each precinct, the County shall provide
5 officials ballots in Spanish. The number of Spanish-language
6 official ballots shall equal at least 200 percent of the number
7 of requests by voters for Spanish-language materials in that
8 precinct, provided that no precinct shall have fewer than 10
9 official ballots in Spanish. The County shall assure that such
10 Spanish-language official ballots are made visible and available
11 on an equal basis with English-language ballots. The parties
12 may by written agreement adjust the 200-percent requirement in
13 light of confirmed information that the actual language need in
14 a particular precinct is lesser or greater than this standard;

15 B. At each precinct, the County shall affix to the
16 inside of each voting booth sample ballot booklets, in English
17 and in Spanish, next to each other and at eye level. The County
18 shall henceforth post in each voting booth instructions in
19 Spanish on casting a ballot, using the identical size and layout
20 as the English instructions, to replace the County's previous
21 practice of posting pre-printed instructions in English only in
22 the voting booth.

23 C. The County shall publicize such procedures
24 according to a program devised in consultation with the Advisory
25 Group, discussed below. Such program shall include, among other
26 things, use of minority language media.

27 8. Sample ballots and other written materials mailed to
28 voters' homes shall be provided in Spanish to voters who have

1 requested or may request materials be mailed to them in Spanish.

2 In addition, the County shall conduct an effective media
3 campaign to inform Spanish-speaking voters of the ability to
4 request Spanish-language materials be mailed to them at home.

5 To that end, the County shall do the following:

6 A. *Effective within five days of the date of this Order* ~~By August 24, 2004,~~ the County shall begin *cas*

7 Spanish-language radio announcements at least every third day
8 through November 1, 2004 on each Spanish-language radio station
9 broadcasting in Ventura County regarding the opportunity to
10 obtain Spanish versions of the sample ballot and instructions on
11 how to sign up for such materials, including a phone number that
12 is free of charge to voters and identifying locations where
13 voters can obtain postage-prepaid return cards to mail in their
14 request. These and other steps are necessary to correct
15 existing deficiencies in the County's current list of persons
16 who receive Spanish-language materials, which significantly
17 undercounts the number of Spanish-speaking voters who are
18 limited English proficient. The County may adjust this
19 publicity schedule after consultation with the Advisory Group,
20 discussed below, and by written agreement with the Department of
21 Justice.

22 B. The County shall have Spanish-speaking staff
23 available during business hours to answer inquiries by Spanish-
24 speaking voters regarding this and other topics.

25 C. *Effective within five days of the date of this Order* ~~By August 24, 2004,~~ the County shall *cas*

26 affirmatively contact by telephone and in writing the president,
27 chair, or equivalent of all identifiable Hispanic organizations
28 in the County and organizations that serve Spanish-speaking

1 citizens, to inform these groups and solicit their assistance in
2 contacting Spanish-speaking voters. *within five days of the date of this Order, (cas)*
3 County shall also extensively distribute postage prepaid cards
4 through Hispanic community groups and organizations serving
5 Spanish-speaking citizens, to provide Spanish-speaking
6 individuals with instructions on how to obtain Spanish-language
7 materials at home.

8 D. By ~~August 31, 2004~~ *September 10, 2004,* the County shall also mail *(cas)*
9 these cards to all voters who were born in a Spanish-speaking
10 country and have thus far not requested Spanish-language
11 materials.

12 E. The County shall mail a Spanish-language sample
13 ballot to any one who requests one, even if the voter had
14 already received an English-language version.

15 F. Nothing in this Decree prevents the County from
16 adopting a bilingual sample ballot booklet in English and in
17 Spanish to be mailed to all voters in the County.

18 Information Required Under the Help America Vote Act

19 9. All information required to be posted in polling sites
20 by Section 302 of the Help America Vote Act of 2002
21 (hereinafter, "HAVA"), 42 U.S.C. § 15482, et seq., shall be
22 posted at all polling sites and shall be in English and Spanish.
23 This information includes, but is not limited to, written
24 information given to the voter casting a provisional ballot on
25 how they may ascertain if their provisional ballot was counted,
26 and if not, the reason the ballot was not counted, see 42 U.S.C.
27 § 15482(a)(5)(A), and the six categories of information required
28 to be posted under 42 U.S.C. § 15482(b). For example,

1 Defendants must post a sample version of the ballot that will be
2 used for that election, in English and Spanish, in each polling
3 location. See 42 U.S.C. § 15482(b)(2)(A). Defendants shall
4 provide a free access system for informing voters about whether
5 their provisional ballot has been counted, and if it has been
6 rejected, the reason for the rejection. The information on this
7 system shall be available to each provisional voter in both
8 English and Spanish. See 42 U.S.C. § 15482(a)(5)(B).

9 Spanish-Language Assistance

10 10. Spanish-language assistance shall be available at all
11 locations where election-related transactions are conducted.
12 Trained bilingual (Spanish/English) election personnel shall be
13 available to answer voting-related questions by telephone
14 without cost and during normal business hours and while the
15 polls are open on election days.

16 11. Defendants shall recruit, hire, and assign election
17 officials able to understand, speak, read, and write Spanish
18 fluently to provide assistance to Spanish-speaking voters at the
19 polls on election days. The County shall survey its employees
20 to identify personnel who speak Spanish fluently and, to the
21 extent such employees can be made available to provide
22 assistance, allow and encourage such employees to serve at the
23 polls on election day. As part of its obligation to ensure that
24 entities on whose behalf the County conducts elections are fully
25 compliant with Section 203 in their elections, the County shall
26 request that each entity for which it conducts elections perform
27 similar surveys of its employees; the County shall request that
28 each school district or other educational entity with which the

1 County contracts implements a program that allows and encourages
2 selected bilingual students (as allowed by state law and as part
3 of an educational program devised by such district) to serve as
4 poll officials on election day for all County elections,
5 including election days that fall on school days, with such
6 students receiving academic credit appropriate to their service
7 as well as all pay and benefits of poll officials; and the
8 County shall request from such entities and maintain copies of
9 all election-related materials and information created or
10 disseminated by such entities for each election. The County
11 shall advise counsel for the United States of any entity that
12 does not participate fully. The County shall also invite
13 eligible members of the Advisory Group, discussed below, to
14 serve as poll officials and to encourage other bilingual voters
15 to do so.

16 12. Any consolidated precinct in which there are 100-249
17 registered voters with Spanish surnames shall be staffed by at
18 least one bilingual election official. Any consolidated
19 precinct in which there are 250-499 registered voters with
20 Spanish surnames shall be staffed by at least two bilingual
21 election officials. Any consolidated precinct in which there
22 are 500 or more registered voters with Spanish surnames shall be
23 staffed by at least three bilingual election officials. The
24 parties may by written agreement adjust this requirement in
25 light of confirmed information that the actual language need in
26 a particular precinct is lesser or greater than this standard.
27 Defendants shall employ bilingual personnel, trained in Spanish-
28 language election terminology, who shall be on call and

1 available to travel to a consolidated precinct not staffed by a
2 bilingual poll worker to provide any necessary assistance to any
3 Spanish-speaking voter. Defendants shall ensure that the
4 language needs of Spanish-speaking voters are met in precincts
5 that have less than 100 Spanish-surnamed voters and that have
6 voters who have requested Spanish-language materials or where
7 there is other reliable information of a need for Spanish-
8 language assistance.

9 13. Signs in both English and Spanish shall be posted
10 prominently at polling places stating that Spanish-language
11 assistance is available. At sites without bilingual staff,
12 signs in both English and Spanish shall be posted that explain
13 how voters can obtain Spanish-language assistance.

14 Election official training

15 14. Prior to each election, in addition to any required
16 state or County training, the County shall train all poll
17 officials and other election personnel present at the polls
18 regarding the following: The provisions of Section 203 of the
19 Voting Rights Act, including the legal obligation and means to
20 make Spanish-language assistance and materials available to
21 voters; the requirement that poll officials be respectful and
22 courteous to all voters regardless of race, ethnicity, color, or
23 language abilities and to avoid inappropriate comments; the
24 requirements of Section 302 of HAVA, 42 U.S.C. § 15482, as they
25 apply to elections for Federal office; and the requirements of
26 Section 208 of the Voting Rights Act of 1965, 42 U.S.C.
27 § 1973aa-6, regarding the rights of voters to the assistor of
28 their choice. In addition to the general training for poll

1 officials, the County shall train all bilingual poll officials
2 on Spanish-language election terminology, voting instructions,
3 and other election-related issues. The County shall maintain a
4 record of which poll officials attend training sessions,
5 including the time, location, and training personnel involved.

6 Response to Complaints About Poll Workers

7 15. Defendants, upon receipt of complaints by voters,
8 whether oral or written, shall investigate expeditiously any
9 allegations of poll worker hostility toward Spanish-speaking
10 and/or Hispanic voters in any election. The results of the
11 investigation(s) conducted by the Defendants shall be reported
12 to the United States. Where there is credible evidence that
13 poll workers have engaged in inappropriate treatment of Spanish-
14 speaking and/or Hispanic voters, Defendants shall remove the
15 poll workers.

16 Program Coordinator

17 16. The County shall employ an individual to coordinate
18 the County's bilingual election Program ("the Coordinator") for
19 all elections within the County. The County shall provide that
20 individual with transportation and other support sufficient to
21 meet the goals of the Program. The Coordinator shall be able to
22 understand, speak, write, and read fluently both Spanish and
23 English. The Coordinator's responsibilities shall include
24 coordination of translation of ballots and other election
25 information; development of a Spanish election glossary to
26 ensure uniform use of election terminology in Spanish;
27 development and oversight of Spanish publicity programs,
28 including selection of appropriate Spanish-language media for

1 notices and announcements; recruitment and assessment of
2 Spanish-language proficiency of bilingual poll officials and
3 interpreters; and managing other aspects of the Program.

4 Advisory Group

5 17. The Coordinator shall establish and chair an Advisory
6 Group to assist and inform the bilingual Program. The
7 Coordinator shall invite participation from all interested
8 individuals and organizations that work with or serve the
9 Spanish-speaking community in Ventura County, to determine how
10 to effectively provide election materials, information, and
11 assistance to Spanish-speaking voters, and to fill any gaps in
12 public awareness about the County's bilingual election program
13 due to past failures to provide accessible election-related
14 information to Spanish-speaking voters. The Advisory Group
15 shall meet at least once a month in 2004, and as the group
16 determines in 2005-2007. The Coordinator shall provide notice
17 of all planned meetings to each member, including the time,
18 location, and agenda for the meeting, at least 14 days in
19 advance, although members of the Advisory Group may agree to
20 waive or shorten this time period as necessary. Within five
21 days following each meeting, the Coordinator shall provide a
22 written summary to all members and to the Assistant Registrar of
23 Voters of the discussion and any decisions reached at the
24 meeting. If the Assistant Registrar of Voters decides not to
25 implement an Advisory Group suggestion or a consensus cannot be
26 reached respecting such suggestion, he or she shall provide to
27 the group through the Coordinator and maintain on file a written
28 statement of the reasons for rejecting such suggestion.

1 18. The County shall transmit to all interested members of
2 the Advisory Group copies, in English and Spanish, of all
3 election information, announcements, and notices that are
4 provided to the electorate and general public and request that
5 they share with their members.

6 Federal Examiners and Observers

7 19. To monitor compliance with and ensure effectiveness of
8 this Decree, and to protect the Fourteenth Amendment rights of
9 the citizens of Ventura County, the appointment of a federal
10 examiner is authorized for Ventura County pursuant to Section
11 3(a) of the Voting Rights Act, 42 U.S.C. § 1973a(a), through
12 August 1, 2007.

13 20. Defendants shall recognize the authority of federal
14 observers to observe all aspects of voting conducted in the
15 polls on election day, including the authority to view County
16 personnel providing assistance to voters during voting, except
17 where the voter objects.

18 Evaluation of plan

19 21. The parties recognize that regular and ongoing
20 reassessment may be necessary to provide the most effective and
21 efficient Spanish-language Program. Defendants shall evaluate
22 the bilingual Program after each election (e.g., following 2004
23 elections) to determine which aspects of the bilingual Program
24 are functioning well; whether any aspects need improvement; and
25 how to affect needed improvements. The Program may be adjusted
26 at any time upon joint written agreement of the parties.

27 Retention of Documents and Reporting Requirements

28 22. During the duration of this Decree, the County shall

1 make and maintain as public documents written records of
2 all actions taken pursuant to this Decree.

3 23. During the duration of this Decree, at least ten (10)
4 days before each County-administered election held in the
5 County, Defendants shall provide to counsel for the United
6 States, (a) the name, address, and precinct designation of each
7 consolidated precinct; (b) the name and title of each poll
8 official appointed and assigned to serve at each consolidated
9 precinct; (c) a designation of whether each poll official is
10 bilingual in English and Spanish; (d) copies of any signs or
11 other written information provided at polling places; and (e) an
12 electronic copy of the voter registration list to be used in
13 such elections. Within thirty (30) days after each election,
14 Defendants shall provide to counsel for the United States any
15 updated report regarding changes in items (a)-(d) above that
16 occurred at the election, and provide information about all
17 complaints the County received at the election regarding
18 language or assistance issues.

19 Other Provisions

20 24. This Decree is final and binding between the parties
21 and their successors in office regarding the claims raised in
22 this action. This Decree shall remain in effect through
23 August 1, 2007, and the United States may within 90 days of that
24 date move to extend the Decree for good cause shown, in the
25 event of a violation of any provision contained herein by the
26 County.
27
28


1 25. The Court shall retain jurisdiction of this case to
2 enter further relief or such other orders as may be necessary
3 for the effectuation of the terms of this agreement and to
4 ensure compliance with Section 203 of the Voting Rights Act.

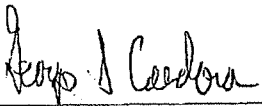
5 26. Each party shall bear its own costs and fees.

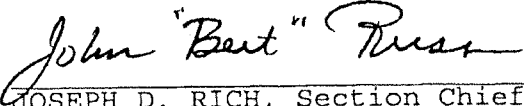
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7 Agreed to this 3rd day of August, 2004.

8
9 AGREED AND CONSENTED TO:


10 For Plaintiff:
11 UNITED STATES OF AMERICA

12 
13 R. ALEXANDER ACOSTA
14 Assistant Attorney General
Civil Rights Division

15 
16
17 GEORGE S. CARDONA
18 Acting United States Attorney
19 MICHELE C. MARCHAND
Asst. United States Attorney

20
21 
22 JOSEPH D. RICH, Section Chief
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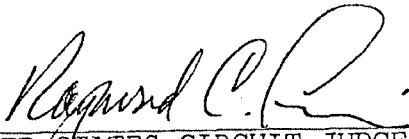
For Defendants:

12 
13 PHILIP J. SCHMIT
14 County Clerk and Recorder
County of Ventura
Hall of Administration
800 South Victoria Avenue
Ventura, California 93009

JUDGMENT AND ORDER

This three-judge Court, having been properly empaneled under 28 U.S.C. § 2284 and 42 U.S.C. § 1973aa-2 to consider the United States' claim under Section 203 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973aa-1a, and having determined that it has jurisdiction over this claim, has considered the terms of the Consent Decree, hereby enters the relief set forth above and incorporates those terms herein.

ENTERED and ORDERED this 2d day of September, 2004.


UNITED STATES CIRCUIT JUDGE


UNITED STATES DISTRICT JUDGE


UNITED STATES DISTRICT JUDGE