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9 UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF CALIFORNIA

11
12 OSCAR LUNA, ALICIA PUENTES,
DOROTHY VELASQUEZ, and GARY
13 RODRIGUEZ,

14 Plaintiffs,

15 vs.

16 COUNTY OF KERN, KERN COUNTY
BOARD OF SUPERVISORS, and
17 MICK GLEASON, ZACK SCRIVNER,
MIKE MAGGARD, DAVID COUCH,
18 and LETICIA PEREZ, in their official
capacity as members of the Kern County
Board of Supervisors, and JOHN
19 NILON, in his official capacity as Kern
County Administrative Officer, and
20 MARY B. BEDARD, in her official
capacity as Kern County Registrar of
21 Voters, inclusive,

22 Defendants.

Case No.:

**COMPLAINT FOR INJUNCTIVE AND
DECLARATORY RELIEF**

INTRODUCTION

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2 1. This Complaint challenges the 2011 redistricting plan of the Kern County Board of
3 Supervisors because it unlawfully discriminates against Plaintiffs in violation of the federal
4 Voting Rights Act, 52 U.S.C. § 10301. This action is filed on behalf of Latino citizens of Kern
5 County whose right to vote has been abridged on the basis of race and national origin. The Kern
6 County redistricting plan denies Latino voters an equal opportunity to elect candidates of their
7 choice.

8 2. Latinos constitute nearly half of the population of Kern County, and are currently
9 able to elect only one of five Board representatives, in the only district where Latinos comprise
10 more than half of the citizen voting age population. The 2011 redistricting plan divides a second
11 politically cohesive Latino community in the northern part of Kern County into two supervisorial
12 districts, neither one of which has sufficient Latino population to enable Latino voters to elect a
13 candidate of their choice.

14 3. Plaintiffs seek a declaration from this Court that the redistricting plan violates the
15 Voting Rights Act, an injunction prohibiting Kern County from holding any further elections
16 under this unlawful electoral system, and an order mandating a redistricting plan for the election
17 of members to the Board of Supervisors that comports with the Voting Rights Act, 52 U.S.C §
18 10301, as well as with all other relevant constitutional and statutory requirements.

JURISDICTION AND VENUE

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20 4. This Court has jurisdiction under 28 U.S.C. §§ 1331 and 1343 because Plaintiffs
21 seek relief under the Voting Rights Act, 52 U.S.C § 10301. Jurisdiction for Plaintiffs’ claim for
22 attorneys’ fees, costs, expert witness fees and associated costs and related non-taxable costs is
23 based on 52 U.S.C § 10310(e) and 28 U.S.C. § 1920.

24 5. Venue is proper in this District under 28 U.S.C. § 1391(b) because relevant and
25 substantial acts occurred and will continue to occur within the Eastern District of California.

PARTIES

26
27 **Plaintiffs**

1 6. Plaintiffs OSCAR LUNA, ALICIA PUENTES, DOROTHY VELASQUEZ, and
2 GARY RODRIGUEZ are Latinos, registered voters, and residents of Kern County.

3 7. Oscar Luna is a Latino citizen of the United States and a resident and registered
4 voter of Kern County, residing in Kern County Supervisorial District 1.

5 8. Alicia Puentes is a Latino citizen of the United States and a resident and registered
6 voter of Kern County, residing in Kern County Supervisorial District 4.

7 9. Dorothy Velasquez is a Latino citizen of the United States and a resident and
8 registered voter of Kern County, residing in Kern County Supervisorial District 1.

9 10. Gary Rodriguez is a Latino citizen of the United States and a resident and
10 registered voter of Kern County, residing in Kern County Supervisorial District 1.

11 **Defendants**

12 11. Defendant KERN COUNTY is a political and geographical subdivision of the
13 State of California established under the laws of the State of California, operating under the laws
14 of the State of California and created for the provision of government services.

15 12. Defendant KERN COUNTY BOARD OF SUPERVISORS is the County's
16 legislative body and is responsible for establishing county policies and the overall administration
17 of the Kern County government.

18 13. Defendants MICK GLEASON, ZACK SCRIVNER, MIKE MAGGARD, DAVID
19 COUCH, and LETICIA PEREZ are members of the Board of Supervisors of Defendant Kern
20 County. Each supervisor is sued in his or her official capacity only.

21 14. Defendant JOHN NILON is the County Administrative Officer for Defendant
22 Kern County and is responsible for enforcing the rules, regulations, and policies and ordinances
23 enacted by Defendant Board of Supervisors, and was responsible for supervising the redistricting
24 map options and public workshops during the 2011 redistricting process undertaken by Defendant
25 Board of Supervisors. Defendant Nilon is sued in his official capacity.

26 15. Defendant MARY B. BEDARD is the Registrar of Voters for Kern County,
27 responsible for conducting county elections in Kern County. Defendant Bedard is sued in her
28

1 official capacity.

2 **FACTUAL ALLEGATIONS**

3 **Demographics and Population of Kern County**

4 16. According to the 2010 United States Census, Kern County had a total population
5 of 839,631, of whom 49% were Latino, 4% were Asian, and 5% were African American. The
6 Latino population had grown significantly in the decade prior to the 2011 redistricting, from 38%
7 to 49% of the total population of Kern.

8 17. The growth of Kern County's Latino population is also reflected in its share of the
9 eligible voting population, i.e., citizens over 18 years of age. The U.S. Census Bureau's
10 American Community Survey ("ACS") 1-year estimate concludes that in 2010, Kern County had
11 a total citizen voting age population ("CVAP") of 476,399, of whom 34% were Latino, a
12 significant increase from the Latino CVAP share of 25% ten years earlier.

13 18. Kern County is divided into five supervisorial districts. Kern County's Latino
14 residents are severely underrepresented on the Board of Supervisors. The only supervisorial
15 district in Kern County to regularly elect a Latino in the last two decades is District 5, currently
16 represented by Leticia Perez.

17 **The 2011 Redistricting Plan**

18 19. Defendant Kern County is required to redistrict its five supervisorial districts every
19 10 years in order to comply with applicable state and federal laws.

20 20. In 2011, the Board of Supervisors held three public hearings on the subject of
21 county redistricting.

22 21. During public hearings, Latino community members submitted a geographically
23 compact and equipopulous plan to Defendant Board of Supervisors that increased the number of
24 districts in which Latinos would constitute a majority of the CVAP from one district to two
25 districts.

26 22. Despite dramatic Latino population growth in the last two decades, and the
27 demonstrable ability to add a second Latino CVAP majority district to reflect that growth,
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1 Defendant Board of Supervisors adopted a plan that maintained only one Latino majority district
2 – District 5 – and fractured a large and geographically compact Latino community of eligible
3 voters between District 1 and District 4.

4 23. The 2011 redistricting plan went into effect for the 2012 primary and general
5 elections.

6 24. The 2011 redistricting plan violates Section 2 of the Voting Rights Act, 52 U.S.C
7 § 10301, because it impermissibly dilutes the Latino vote in Kern County, allowing the non-
8 Latino majority's bloc voting to defeat the candidates preferred by Latino voters, and deprives
9 Latinos of an equal opportunity to participate in the political process and to elect candidates of
10 their choice.

11 **Racially Polarized Voting in Kern County**

12 25. Elections in Kern County are polarized along racial lines. Polarized voting occurs
13 when members of a protected class prefer candidate choices that are different from the rest of the
14 electorate. Polarized voting occurs in Kern County elections because there is a significant
15 difference in the candidates that are preferred by Latino voters and the candidates that are
16 preferred by non-Latino voters.

17 26. Latino voters in Kern County are politically cohesive, manifested by the higher
18 rates at which Latino voters express their preference for Latino candidates in racially contested
19 elections.

20 27. Non-Latino voters typically vote sufficiently as a bloc to defeat the Latino voters'
21 candidates of choice.

22 28. Racially polarized voting by Kern County voters also occurs in elections for
23 countywide and statewide elective offices.

24 29. Because Latino voters and non-Latino voters express different preferences, Latino
25 voters are unable to elect candidates of choice in supervisorial districts where Latinos do not
26 comprise a majority of the CVAP.

27 30. During the past two decades, voters in District 5, the sole Latino CVAP majority
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1 district, have consistently elected Latino candidates to the Board of Supervisors, including Pete
2 Parra (1996-2004), Michael Rubio (2004-2010), and Leticia Perez (2012-present).

3 **History and Effects of Discrimination in Kern County**

4 31. The electoral districting scheme for the election of the Kern County Board of
5 Supervisors interacts with social and historical conditions to cause an inequality in the
6 opportunity of Latino voters to elect representatives of their choice as compared to non-Latino
7 voters.

8 32. Historically, Latinos in Kern County have been subjected to official voting-related
9 discrimination that includes voting practices or procedures that enhance the opportunity for
10 discrimination against Latino voters.

11 33. Latinos in Kern County bear the effects of longstanding societal, economic, and
12 educational discrimination, effects that are apparent in the areas of education, employment,
13 housing, and health. Such discriminatory effects hinder Latino voters' ability to participate
14 effectively in the political process.

15 34. No Latino candidate has won a supervisorial contest outside of the only Latino
16 CVAP majority district – District 5 – in the past two decades.

17 35. There is, and has historically been, a lack of responsiveness on the part of County
18 Supervisors to the particularized needs of the Latino residents of Kern County.

19 36. The policies underlying Defendants' failure to enact a 2011 redistricting plan that
20 fairly reflected the Latino population growth during the prior decade are tenuous.

21 **FIRST CAUSE OF ACTION**

22 **VIOLATION OF SECTION 2 THE VOTING RIGHTS ACT OF 1965**

23 37. Plaintiffs re-allege and incorporate by reference the allegations set forth in all prior
24 paragraphs of this Complaint.

25 38. Section 2 of the Voting Rights Act, 52 U.S.C. § 10301, is applicable to Kern
26 County.

27 39. The Latino population in Kern County is sufficiently numerous and geographically
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1 compact such that two properly apportioned electoral districts can be drawn in which Latinos
2 would constitute a majority of the CVAP.

3 40. Racially polarized voting persists in elections of members to the Board of
4 Supervisors. Non-Latino voters typically vote as a bloc to defeat the Latino voters' candidates of
5 choice.

6 41. The 2011 redistricting plan results in a denial or abridgment of the right to vote of
7 Plaintiffs on account of their race, color, or ethnicity, by having the effect of canceling out or
8 minimizing their individual voting strength in County Board of Supervisor elections. The 2011
9 redistricting plan does not afford Plaintiffs an equal opportunity to participate in the political
10 process and elect candidates of their choice equal to that afforded other members of the
11 electorate, diluting Latino voting strength in violation of Section 2 of the Voting Rights Act, 52
12 U.S.C. § 10301.

13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiffs respectfully pray that this Court enter Judgment granting
15 Plaintiffs:

16 1. A declaratory judgment that the redistricting plan violates the rights of Plaintiffs as
17 secured by the Voting Rights Act, 52 U.S.C. § 10301;

18 2. Permanent injunctive relief preventing the Defendants and their officers, agents,
19 and employees, successors in office and all other persons in active concert and participation with
20 them, from conducting future elections for Kern County Board of Supervisors under the unlawful
21 redistricting plan;

22 3. An Order of this Court adopting a redistricting plan for the election of members to
23 the Board of Supervisors that comports with the Voting Rights Act, 52 U.S.C. § 10301, as well as
24 all other relevant constitutional and statutory requirements;

25 4. The costs of this suit, including reasonable attorneys' fees, under 52 U.S.C §
26 10310 (e) and 28 U.S.C. 1920; and

27 5. Such other and further relief as the Court may deem just and proper.
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Dated: April 22, 2016

Respectfully submitted,

MEXICAN AMERICAN LEGAL DEFENSE AND
EDUCATION FUND



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