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RICHARD J. THORNTON
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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E-filing

MEJ

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

33 UNITED STATES OF AMERICA,)
34)
35 Plaintiff,)
36)
37 v.)
38 ALAMEDA COUNTY, CALIFORNIA;)
39 DAVE MACDONALD,)
40 REGISTRAR OF VOTERS, in his official)
41 capacity; and the ALAMEDA COUNTY BOARD)
42 OF SUPERVISORS,)
43)
44 Defendants.)
45 _____)

CV 11 3262

COMPLAINT
THREE-JUDGE COURT
REQUESTED

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

2 1. This is an action brought to enforce the minority language requirements of
3 Section 203 of the Voting Rights Act, 42 U.S.C. § 1973aa-1a, in order to secure voting rights
4 guaranteed by the Fourteenth and Fifteenth Amendments.

5 JURISDICTION

6 2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and
7 1345, the Voting Rights Act, 42 U.S.C. § 1973aa-2, and the Declaratory Judgment Act, 28
8 U.S.C. §§ 2201 and 2202.

9 THREE-JUDGE COURT

10 3. In accordance with 42 U.S.C. § 1973aa-2 and 28 U.S.C. § 2284, the claim under
11 Section 203 of the Voting Rights Act, 42 U.S.C. § 1973aa-1a, must be heard and determined by a
12 court of three judges.

13 VENUE AND INTRADISTRICT ASSIGNMENT

14 4. The events relevant to this action occurred in Alameda County, California, which
15 is located in the United States District Court for the Northern District of California. 28 U.S.C. §
16 84(a). Pursuant to Civil Local Rule 3-2(d), intradistrict assignment is proper in the San
17 Francisco Division or Oakland Division.

18 PARTIES

19 5. The Attorney General of the United States brings this action on behalf of plaintiff
20 UNITED STATES OF AMERICA. This action seeks declaratory and injunctive relief pursuant
21 to Sections 203 and 204 of the Voting Rights Act, 42 U.S.C. §§ 1973aa-1a and 1973aa-2, and
22 pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

23 6. Defendant ALAMEDA COUNTY (“the County”) is a political and geographical
24 subdivision of the State of California and exists under the laws of that State.

25 7. Defendant DAVE MACDONALD, the Alameda County Registrar of Voters, is
26 responsible for conducting County elections, including primary, general, special district, and

COMPLAINT

1 school district elections. Cal. Gov. Code § 26802. Defendant MACDONALD is sued in his
2 official capacity.

3 8. Defendant ALAMEDA COUNTY BOARD OF SUPERVISORS (“the Board”) is
4 the governing body of the County with general responsibility for the legislative policies and
5 administration of the County, including but not limited to the primary budgetary authority for the
6 County responsible for the County’s expenditure of funds. Cal. Gov. Code § 25252.

7 ALLEGATIONS

8 9. Section 203 of the Voting Rights Act requires that whenever a covered
9 jurisdiction provides “any registration or voting notices, forms, instructions, assistance, or other
10 materials or information relating to the electoral process, including ballots, it shall provide them
11 in the language of the applicable minority group as well as in the English language.” 42 U.S.C.
12 1973aa-1a(c). Section 203 contains a formula by which the Director of the Census makes
13 determinations based on census data as to which jurisdictions are covered by these requirements.
14 42 U.S.C. 1973aa-1a(b). These coverage determinations are final and non-reviewable. 42
15 U.S.C. § 1973aa-1a(b)(4).

16 10. Alameda County has been continuously covered by the requirements of Section
17 203, with respect to both Spanish language and Chinese language, since September 18, 1992. 57
18 Fed. Reg. 43,213 (Sept. 18, 1992); 67 Fed. Reg. 48,871 (July 26, 2002).

19 11. Since 1992, the Department of Justice has notified Alameda County election
20 officials regarding the minority election requirements of Section 203 of the Voting Rights Act on
21 numerous occasions.

22 12. On April 13, 1995, the United States filed a lawsuit in the United States District
23 Court for Northern District of California against Alameda County for failing to provide election
24 material and assistance in the Chinese language for limited-English proficient voters in violation
25 of Section 203. *United States v. Alameda County*, C95-1266 (N.D. Cal.). On January 22, 1996,
26 the Court entered a Settlement Agreement and Order, which, among other things, required the

COMPLAINT

1 County to provide Chinese language voting assistance and materials. The Settlement Agreement
2 and Order permanently enjoined Defendants from failing to comply with the requirements of
3 Sections 2 and 203 of the Voting Rights Act. The Settlement Agreement and Order expired on
4 December 31, 2000.

5 13. According to the 2000 Census, Alameda County had a total population of
6 1,443,741, of whom 273,887 (18.9%) were of Hispanic origin and 110,895 (7.6%) were of
7 Chinese origin. In 2000, the voting-age citizen population was 896,918, of whom 106,287
8 (11.9%) were of Hispanic origin and 62,154 (6.9%) were of Chinese origin. Of the voting-age
9 citizens of Hispanic origin, 22,010 (20.7%) were limited-English proficient, while 28,280
10 (45.5%) of the voting age citizens of Chinese origin were limited-English proficient.

11 14. The Hispanic and Chinese populations in Alameda County have grown.
12 According to the 2005-2009 American Community Survey 5-Year Estimates, Alameda County's
13 total population is 1,457,095, of whom 310,688 (21.3%) were of Hispanic origin and 128,891
14 (8.8%) were of Chinese origin. In 2005-2009, the voting-age citizen population was 919,099, of
15 whom 122,686 (13.3%) were of Hispanic origin.

16 CAUSE OF ACTION

17 15. The United States hereby alleges and incorporates by reference paragraphs one
18 through fourteen above.

19 16. Defendants have failed to provide effective election-related information and
20 assistance in Chinese to limited-English proficient voters as required by Section 203 in the
21 following ways:

22 a) Defendants have failed to recruit, appoint, train, and maintain an adequate
23 pool of Chinese-speaking bilingual poll officials capable of providing Chinese-speaking
24 voters with limited-English proficiency necessary and effective language assistance on
25 election day;

1 limited-English proficient voters in violation of Section 203 of the Voting
2 Rights Act, 42 U.S.C. § 1973aa-1a;

3 (2) Enjoining Defendants, their employees, agents and successors in office,
4 and all persons acting in concert with them, from failing to provide
5 Spanish language and Chinese language election assistance, materials, and
6 information to voters with limited-English proficiency as required by
7 Section 203, 42 U.S.C. § 1973aa-1a;

8 (3) Ordering Defendants to devise and implement a remedial plan to ensure
9 that voters of Hispanic origin and voters of Chinese origin who are
10 limited-English proficient receive the bilingual assistance, materials, and
11 information they need to fully and effectively participate in the electoral
12 process as required by Section 203, 42 U.S.C. § 1973aa-1a;

13 (4) Authorizing the appointment of federal observers to observe elections held
14 in Alameda County pursuant to Section 3(a) of the Voting Rights Act, 42
15 U.S.C. § 1973a(a).

16 The United States further prays that this Court order such additional relief as the
17 interests of justice may require, together with the costs and disbursements in maintaining
18 this action.

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COMPLAINT

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Date: ____ day of ____, 2011

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COMPLAINT

1 Date: 30th day of June 2011

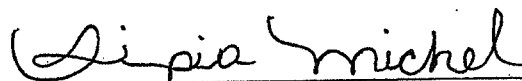
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12 attached

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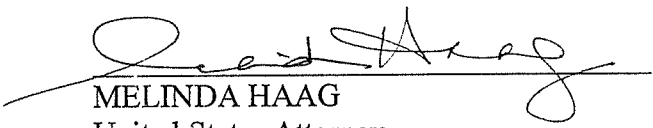
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Date: ____ day of _____, 2011

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