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7 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
8 IN AND FOR THE COUNTY OF FRANKLIN
9

10 GABRIEL PORTUGAL, BRANDON PAUL
11 MORALES, JOSE TRINIDAD CORRAL, and
12 LEAGUE OF UNITED LATIN AMERICAN
13 CITIZENS,

14 Plaintiffs,

15 v.

16 FRANKLIN COUNTY, CLINT DIDIER,
17 ROCKY MULLEN, BRAD PECK, in their
18 official capacities as members of the Franklin
County Board of Commissioners,

Defendants.

No. 21-2-25021-11

DEFENDANTS' ANSWER TO
COMPLAINT FOR INJUNCTIVE
RELIEF UNDER THE WASHINGTON
VOTING RIGHTS ACT

19 COME NOW Defendants Franklin County, Clint Didier, Rocky Mullen, and Brad Peck
20 (the "Defendants"), by and their counsel of record, and hereby answer Complaint for Injunctive
21 Relief Under the Washington Voting Rights Act (the "Complaint").
22

23 **I. INTRODUCTION**

24 1.1 Defendants deny the allegations in Paragraph 1.1.

25 1.2 Defendants admit that, as measured by data from the United States Census
26 Bureau, the Latino community has been growing in Franklin County. Except as specifically
27 admitted, Defendants deny the allegations in Paragraph 1.2.

DEFENDANTS' ANSWER TO COMPLAINT FOR
INJUNCTIVE RELIEF UNDER THE WASHINGTON
VOTING RIGHTS ACT - 1

No. 21-250210-11

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1.3 Defendants deny the allegations in Paragraph 1.3.

1.4 Defendants deny the allegations in Paragraph 1.4.

1.5 Defendants admit that, based on data gathered to date, it is possible to create a three single-member district plan in which at least one district has an eligible voter population that is more than 50% Latino. Except as specifically admitted, Defendants deny the allegations in Paragraph 1.5.

1.6 Defendants deny the allegations in Paragraph 1.6.

1.7 Defendants deny the allegations in Paragraph 1.7.

1.8 Defendants deny the allegations in Paragraph 1.8.

II. PARTIES

2.1 Defendants admit the allegations in Paragraph 2.1.

2.2 Defendants admit the allegations in Paragraph 2.2.

2.3 Defendants admit the allegations in Paragraph 2.3.

2.4 Defendants admit the allegations in Paragraph 2.4.

2.5 Defendants are without sufficient knowledge and information as to the truth of the allegations in Paragraph 2.5 and therefore deny the same.

2.6 Defendants are without sufficient knowledge and information as to the truth of the allegations in Paragraph 2.6 and therefore deny the same.

2.7 Defendants are without sufficient knowledge and information as to the truth of the allegations in Paragraph 2.7 and therefore deny the same.

2.8 Defendants admit the allegations in Paragraph 2.8.

2.9 Defendants admit that Clint Didier, Rocky Mullen, and Brad Peck are current members of the Commission. Defendants further admit that the current members of the Commission are each sued in their official capacity only. Except as specifically admitted, Defendants deny the allegations in Paragraph 2.9.

III. JURISDICTION AND VENUE

3.1 Defendants admit the allegations in Paragraph 3.1

3.2 Defendants admit the allegations in Paragraph 3.2.

IV. FACTS

A. The Franklin County Commission

4.1 Defendants admit the allegations in Paragraph 4.1.

4.2 Defendants admit the allegations in Paragraph 4.2.

4.3 Defendants admit the allegations in Paragraph 4.3.

4.4 Defendants admit that voters from all districts in Franklin County vote for candidates for the Commission in Paragraph 4.4. Except as specifically admitted, Defendants deny the allegations in Paragraph 4.4.

4.5 Defendants admit the allegations in Paragraph 4.5.

4.6 Defendants admit that the most recent general election for Commissioner Districts 1 and 2 occurred on November 3, 2020. Defendants further admit that Commissioner Districts 1 and 2 serve four-year terms. Defendants also admit that the most recent general election for District 3 occurred on November 6, 2018. Defendants admit that Commissioner District 3 serves four-year terms. Except as specifically admitted, Defendants deny the allegations in Paragraph 4.6.

4.7 Defendants admit that the Commissioner is Franklin County's legislative authority. Except as specifically admitted, Defendants deny the allegations in Paragraph

4.8 Defendants are without sufficient knowledge and information as to the truth of the allegations in Paragraph 4.8 and therefore deny the same.

4.9 Defendants are without sufficient knowledge and information as to the truth of the allegations in Paragraph 4.9 and therefore deny the same.

4.10 Defendants admit that the County administers programs and services related to public health, environmental protection, housing, and public works. Except as specifically admitted, Defendants deny the allegations in Paragraph 4.9.

1 **B. Franklin County Demographics**

2 4.11 In answer to the allegations in Paragraph 4.11, Defendants respond that the
3 American Community Survey is a survey, not a headcount. As such, Defendants denies the
4 allegations in Paragraph 4.11.

5 4.12 In answer to the allegations in Paragraph 4.12, Defendants respond that the
6 American Community Survey is a survey, not a headcount. As such, Defendants denies the
7 allegations in Paragraph 4.12.

8 4.13 Defendants admit that, as measured by data from the United States Census
9 Bureau, the Latino community has grown in Franklin County. Except as specifically admitted,
10 Defendants deny the allegations in Paragraph 4.13.

11 4.14 Defendants admit that, as measured by data from the United States Census
12 Bureau, the Latino community has grown in Franklin County. Except as specifically admitted,
13 Defendants deny the allegations in Paragraph 4.14.

14 4.15 Defendants admit that there are substantial populations of Latino residents in the
15 cities of Pasco, Mesa, and Connell. Except as specifically admitted, Defendants deny the
16 allegations in Paragraph 4.15.

17 4.16 In answer to the allegations in Paragraph 4.16, Defendants respond that the
18 American Community Survey is a survey, not a headcount. As such, Defendants denies the
19 allegations in Paragraph 4.16.

20 4.17 Defendants are without sufficient knowledge and information as to the truth of
21 the allegations in Paragraph 4.17 and the accuracy of the “map” depicted immediately under
22 Paragraph 4.17 and therefore deny the same.

23 **C. The Washington Voting Rights Act**

24 4.18 In answer to Paragraph 4.18, Defendants respond that the allegations in
25 Paragraph 4.18 call for legal conclusions. As such, Defendants deny the same. By way of
26 further answer, RCW 29A.92.005 speaks for itself.

1 4.19 In answer to Paragraph 4.19, Defendants respond that the allegations in
2 Paragraph 4.19 call for legal conclusions. As such, Defendants deny the same. By way of
3 further answer, RCW 29A.92.005 speaks for itself.

4 4.20 In answer to Paragraph 4.20, Defendants respond that the allegations in
5 Paragraph 4.20 call for legal conclusions. As such, Defendants deny the same.

6 4.21 In answer to Paragraph 4.21, Defendants respond that the allegations in
7 Paragraph 4.21 call for legal conclusions. As such, Defendants deny the same. By way of
8 further answer, RCW 29A.92.020 speaks for itself.

9 4.22 In answer to Paragraph 4.22, Defendants respond that the allegations in
10 Paragraph 4.22 call for legal conclusions. As such, Defendants deny the same. By way of
11 further answer, RCW 29A.92.020 speaks for itself.

12 4.23 In answer to Paragraph 4.23, Defendants respond that the allegations in
13 Paragraph 4.23 call for legal conclusions. As such, Defendants deny the same. By way of
14 further answer, RCW 29A.92.030 speaks for itself.

15 4.24 In answer to Paragraph 4.24, Defendants respond that the allegations in
16 Paragraph 4.24 call for legal conclusions. As such, Defendants deny the same. By way of
17 further answer, the opinions of the United States Supreme Court from *Thornburg v. Gingles*,
18 478 U.S. 30, 106 S. Ct. 2752, 92 L. Ed. 2d (1985) speak for themselves.

19 4.25 In answer to Paragraph 4.25, Defendants respond that the allegations in
20 Paragraph 4.25 call for legal conclusions. As such, Defendants deny the same.

21 4.26 In answer to Paragraph 4.26, Defendants respond that the allegations in
22 Paragraph 4.26 call for legal conclusions. As such, Defendants deny the same. By way of
23 further answer, RCW 29A.92.020 speaks for itself.

24 **D. Elections in Franklin County Exhibit Polarized Voting**

25 4.27 Defendants deny the allegations in Paragraph 4.27.

26 4.28 In answer to Paragraph 4.28, Defendants respond that the allegations in
27 Paragraph 4.28 call for legal conclusions. As such, Defendants deny the same.

1 4.29 Defendants deny the allegations in Paragraph 4.29.
2 4.30 Defendants deny the allegations in Paragraph 4.30.
3 4.31 Defendants deny the allegations in Paragraph 4.31.
4 4.32 Defendants deny the allegations in Paragraph 4.32.
5 4.33 Defendants deny the allegations in Paragraph 4.33.
6 4.34 Defendants deny the allegations in Paragraph 4.34.
7 4.35 Defendants deny the allegations in Paragraph 4.35.
8 4.36 Defendants deny the allegations in Paragraph 4.36.
9 4.37 Defendants deny the allegations in Paragraph 4.37.
10 4.38 Defendants deny the allegations in Paragraph 4.38.
11 4.39 Defendants deny the allegations in Paragraph 4.39.
12 4.40 Defendants admit the allegations in Paragraph 4.40.
13 4.41 Defendants deny the allegations in Paragraph 4.41.
14 4.42 In answer to Paragraph 4.42, Defendants admit that the precinct-level results
15 speak for themselves. Except as specifically admitted, Defendants deny the allegations in
16 Paragraph 4.42.
17 4.43 In answer to Paragraph 4.43, Defendants admit that the precinct-level results
18 speak for themselves. Except as specifically admitted, Defendants deny the allegations in
19 Paragraph 4.43.
20 4.44 In answer to Paragraph 4.43, Defendants admit that the precinct-level results
21 speak for themselves. Except as specifically admitted, Defendants deny the allegations in
22 Paragraph 4.43.
23 4.45 Defendants deny the allegations in Paragraph 4.45.
24 4.46 Defendants deny the allegations in Paragraph 4.46.
25 4.47 In answer to Paragraph 4.47, Defendants admit that the precinct-level results
26 speak for themselves. Except as specifically admitted, Defendants deny the allegations in
27 Paragraph 4.47.

1 4.48 In answer to Paragraph 4.48, Defendants admit that the precinct-level results
2 speak for themselves. Except as specifically admitted, Defendants deny the allegations in
3 Paragraph 4.48.

4 4.49 In answer to Paragraph 4.49, Defendants admit that the precinct-level results
5 speak for themselves. Except as specifically admitted, Defendants deny the allegations in
6 Paragraph 4.49.

7 4.50 In answer to Paragraph 4.50, Defendants admit that the precinct-level results
8 speak for themselves. Except as specifically admitted, Defendants deny the allegations in
9 Paragraph 4.50.

10 4.51 In answer to Paragraph 4.51, Defendants admit that the precinct-level results
11 speak for themselves. Except as specifically admitted, Defendants deny the allegations in
12 Paragraph 4.51.

13 4.52 In answer to Paragraph 4.52, Defendants admit that the precinct-level results
14 speak for themselves. Except as specifically admitted, Defendants deny the allegations in
15 Paragraph 4.52.

16 4.53 In answer to Paragraph 4.53, Defendants admit that the precinct-level results
17 speak for themselves. Except as specifically admitted, Defendants deny the allegations in
18 Paragraph 4.53.

19 4.54 In answer to Paragraph 4.54, Defendants admit that the precinct-level results
20 speak for themselves. Except as specifically admitted, Defendants deny the allegations in
21 Paragraph 4.54.

22 4.55 In answer to Paragraph 4.55, Defendants admit that the precinct-level results
23 speak for themselves. Except as specifically admitted, Defendants deny the allegations in
24 Paragraph 4.55.

25 4.56 Defendants deny the allegations in Paragraph 4.56.

26 4.57 Defendants deny the allegations in Paragraph 4.57.

1 4.58 In answer to Paragraph 4.58, Defendants respond that the allegations in
2 Paragraph 4.58 call for legal conclusions. As such, Defendants deny the same.

3 4.59 In answer to Paragraph 4.59, Defendants respond that the allegations in
4 Paragraph 4.59 call for legal conclusions. As such, Defendants deny the same.

5 4.60 In answer to Paragraph 4.60, Defendants respond that the allegations in
6 Paragraph 4.60 call for legal conclusions. As such, Defendants deny the same.

7 4.61 Defendants deny the allegations in Paragraph 4.61.

8 4.62 Defendants deny the allegations in Paragraph 4.62.

9 4.63 Defendants deny the allegations in Paragraph 4.63.

10 4.64 Defendants deny the allegations in Paragraph 4.64.

11 4.65 In answer to Paragraph 4.65, Defendants respond that the allegations in
12 Paragraph 4.65 call for legal conclusions. As such, Defendants deny the same. By way of
13 further answer, the consent decree speaks for itself.

14 4.66 In answer to Paragraph 4.66, Defendants respond that the allegations in
15 Paragraph 4.66 call for legal conclusions. As such, Defendants deny the same. By way of
16 further answer, the consent decree speaks for itself.

17 4.67 Defendants deny the allegations in Paragraph 4.67.

18 4.68 Defendants admit the allegations in Paragraph 4.68.

19 4.69 Defendants deny the allegations in Paragraph 4.69.

20 4.70 Defendants deny the allegations in Paragraph 4.70.

21 4.71 Defendants deny the allegations in Paragraph 4.71.

22 4.72 Defendants deny the allegations in Paragraph 4.72.

23 **E. Franklin County's At-Large Electoral System Dilutes the Voting Rights of Latinos**
24 **and Denies Latinos an Equal Opportunity to Elect Candidates of their Choice.**

25 4.73 Defendants deny the allegations in Paragraph 4.73. By way of further answer,
26 Defendants deny the allegations in the subparagraph heading.

27 4.74 Defendants deny the allegations in Paragraph 4.74.

1 4.75 Defendants deny the allegations in Paragraph 4.75.

2 4.76 In answer to Paragraph 4.76, Defendants admit that Commissioner Peck's public

3 comments speak for themselves. Except as specifically admitted, Defendants deny the

4 allegations in Paragraph 4.76.

5 4.77 Defendants deny the allegations in Paragraph 4.77.

6 4.78 Defendants deny the allegations in Paragraph 4.78.

7 4.79 Defendants deny the allegations in Paragraph 4.79.

8 4.80 Defendants deny the allegations in Paragraph 4.80.

9 4.81 Defendants deny the allegations in Paragraph 4.81.

10 4.82 Defendants are without sufficient knowledge and information as to the truth of

11 the allegations in Paragraph 4.82 and therefore deny the same.

12 4.83 Defendants deny the allegations in Paragraph 4.83.

13 4.84 Defendants deny the allegations in Paragraph 4.84.

14 4.85 Defendants deny the allegations in Paragraph 4.85.

15 4.86 Defendants deny the allegations in Paragraph 4.86.

16 4.87 Defendants deny the allegations in Paragraph 4.87.

17 4.88 Defendants deny the allegations in Paragraph 4.88.

18 4.89 Defendants deny the allegations in Paragraph 4.89.

19 4.90 Defendants deny the allegations in Paragraph 4.90.

20 4.91 Defendants deny the allegations in Paragraph 4.91.

21 4.92 Defendants admit that on February 10, 2015, Antonio Zambrano-Montes was

22 shot and killed by City of Pasco police officers. Except as specifically admitted, Defendants

23 deny the allegations in Paragraph 4.92.

24 4.93 Defendants deny the allegations in Paragraph 4.93.

25 4.94 In answer to Paragraph 4.94, Defendants admit that alleged caption speaks for

26 itself. Except as specifically admitted, Defendants deny the allegations in Paragraph 4.94.

27 4.95 Defendants deny the allegations in Paragraph 4.95.

1 4.96 In answer to Paragraph 4.96, Defendants admit that Commissioner Didier's
2 alleged public comments speak for themselves. Except as specifically admitted, Defendants
3 deny the allegations in Paragraph 4.96.

4 4.97 Defendants deny the allegations in Paragraph 4.97.

5 4.98 Defendants deny the allegations in Paragraph 4.98.

6 4.99 Defendants deny the allegations in Paragraph 4.99.

7 4.100 In answer to Paragraph 4.100, Defendants admit data from the United States
8 Census Bureau speak for themselves. Except as specifically admitted, Defendants deny the
9 allegations in Paragraph 4.100.

10 4.101 In answer to Paragraph 4.101, Defendants admit data from the United States
11 Census Bureau speak for themselves. Except as specifically admitted, Defendants deny the
12 allegations in Paragraph 4.101.

13 4.102 In answer to Paragraph 4.102, Defendants admit data from the United States
14 Census Bureau speak for themselves. Except as specifically admitted, Defendants deny the
15 allegations in Paragraph 4.102.

16 4.103 In answer to Paragraph 4.102, Defendants admit data from the United States
17 Census Bureau speak for themselves. Except as specifically admitted, Defendants deny the
18 allegations in Paragraph 4.103.

19 4.104 In answer to Paragraph 4.102, Defendants admit data from the United States
20 Census Bureau speak for themselves. Except as specifically admitted, Defendants deny the
21 allegations in Paragraph 4.103.

22 **V. CAUSE OF ACTION: WASHINGTON VOTING RIGHTS ACT**

23 5.1 Defendants reallege and reincorporate the foregoing.

24 5.2 Defendants deny the allegations in Paragraph 5.2.

25 5.3 Defendants deny the allegations in Paragraph 5.3.

26 5.4 Defendants deny the allegations in Paragraph 5.4.

27 5.5 Defendants deny the allegations in Paragraph 5.5.

1 5.6 Defendants deny the allegations in Paragraph 5.6.

2 5.7 Defendants deny the allegations in Paragraph 5.7.

3 5.8 Defendants deny the allegations in Paragraph 5.8.

4 5.9 Defendants deny the allegations in Paragraph 5.9.

5 5.10 Defendants deny the allegations in Paragraph 5.10.

6 5.11 Defendants deny the allegations in Paragraph 5.11.

7 5.12 Defendants deny the allegations in Paragraph 5.12.

8 5.13 Defendants deny the allegations in Paragraph 5.13.

9 **VI. REQUEST FOR RELIEF**

10 Defendants deny Plaintiffs' Request for Relief, including all subparts, and deny that
11 Plaintiffs are entitled to the relief so requested. By way of further answer, and as additional
12 defenses to Plaintiffs' Complaint for Injunctive Relief Under the Washington Voting Rights
13 Act, some of which are affirmative defenses and some of which relate to Plaintiffs' failure to
14 meet their burden of proof, Defendants allege as follows:

15 A. Plaintiffs have failed to state a claim against Defendants.

16 * * *

17 WHEREFORE, Defendants having fully answered Plaintiffs' Complaint for Injunctive
18 Relief Under the Washington Voting Rights Act and asserted affirmative defenses, request and
19 pray that the Court grant the following relief:

20 1. That Plaintiffs' Complaint for Injunctive Relief Under the Washington Voting Rights
21 Act be dismissed with prejudice and without an award of costs;

22 2. That Defendants be awarded its statutory costs and attorney fees in defending
23 this action; and

24 3. That Defendants be awarded further relief as the Court deems just and equitable
25 under the circumstances and pursuant to applicable law.

1 DATED this 12th day of May, 2021.

2
3 Respectfully submitted,

4 FLOYD, PFLUEGER & RINGER. P.S.

5 By: s/ John A. Safarli

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DECLARATION OF SERVICE

Pursuant to RCW 9A.72.085, I declare under penalty of perjury and the laws of the State of Washington that on the below date, I delivered a true and correct copy of *DEFENDANTS' ANSWER TO COMPLAINT FOR INJUNCTIVE RELIEF UNDER THE WASHINGTON VOTING RIGHTS ACT* via the method indicated below to the following parties:

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DATED this 12th day of May, 2021 at Seattle, Washington.

s/Sean C. Moore
Sean C. Moore, Legal Assistants