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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

ROGELIO MONTES and MATEO
ARTEAGA,

Plaintiffs,

vs.

CITY OF YAKIMA, MICAH
CAWLEY, in his official capacity as
Mayor of Yakima, and MAUREEN
ADKISON, SARA BRISTOL, KATHY
COFFEY, RICK ENSEY, DAVE ETTL,
and BILL LOVER, in their official
capacity as members of the Yakima City
Council,

Defendants.

NO. CV-12-3108-TOR

**DEFENDANTS' ANSWER TO
COMPLAINT AND DEMAND
FOR JURY TRIAL**

DEFENDANTS' ANSWER TO
COMPLAINT AND DEMAND FOR
JURY TRIAL - 1

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1 COME NOW Defendants City of Yakima, Micah Cawley, in his official
2 capacity as Mayor of Yakima, Maureen Adkison, Sara Bristol, Kathy Coffey,
3 Rick Ensey, Dave Ettl, and Bill Lover, in their official capacities as members of
4 the Yakima City Council (collectively, "Defendants"), by and through their
5 counsel of record, and hereby answer Plaintiffs' Complaint as follows:

6 **I. INTRODUCTION**

7 1. In answer to Paragraph 1 of Plaintiffs' Complaint, Defendants answer that
8 the Complaint speaks for itself regarding the nature of this action. All remaining
9 factual allegations are denied.

10 **II. JURISDICTION**

11 2. In answer to Paragraph 2 of Plaintiffs' Complaint, Defendants answer that
12 the Complaint speaks for itself regarding the relief sought by this action.
13 Defendants deny that Plaintiffs are entitled to such relief.

14 3. In answer to Paragraph 3 of Plaintiffs' Complaint, Defendants admit that
15 this Court has subject matter jurisdiction over this action and that venue is proper
16 in this Court.

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18 //

19 //

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III. PARTIES

4. In answer to Paragraph 4 of Plaintiffs' Complaint, Defendants are without knowledge or information sufficient as to form a belief as to the truth of the allegations and, hence, deny each and every allegation therein.

5. In answer to Paragraph 5 of Plaintiffs' Complaint, Defendants are without knowledge or information sufficient as to form a belief as to the truth of the allegations and, hence, deny each and every allegation therein.

6. In answer to Paragraph 6 of Plaintiffs' Complaint, Defendants admit the City of Yakima is a municipal corporation organized under the laws of the State of Washington. Defendants admit the remaining allegations from Paragraph 6.

7. In answer to Paragraph 7 of Plaintiffs' Complaint, Defendants admit that Defendants Micah Cawley, Maureen Adkison, Sara Bristol, Kathy Coffey, Rick Ensey, Dave Ettl, and Bill Lover are the current elected members of the City Council. Defendants answer that Plaintiffs' Complaint speaks for itself regarding the capacity in which the individually named Defendants have been sued. Except as specifically admitted, all other remaining allegations are denied.

IV. PARTIES

8. In answer to Paragraph 8 of Plaintiffs' Complaint, Defendants admit that the City Council is composed of seven members. Defendants admit that pursuant

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1 to the Yakima City Charter for the four City Council district positions, each
2 registered voter of each district during the primary election may cast one vote for
3 a candidate who resides in that district, and the names of the two candidates from
4 each district for whom the largest number of votes are cast at the primary election
5 appear on the general citywide election ballot. Defendants admit that the
6 remaining three City Council members are elected from the City at large in both
7 the primary election and general election. Except as specifically admitted, all
8 other remaining allegations are denied.

9 9. In answer to Paragraph 9 of Plaintiffs' Complaint, Defendants admit the
10 same.

11 10. In answer to Paragraph 10 of Plaintiffs' Complaint, Defendants deny each
12 and every allegation therein.

13 11. In answer to Paragraph 11 of Plaintiffs' Complaint, Defendants deny each
14 and every allegation therein.

15 12. In answer to Paragraph 12 of Plaintiffs' Complaint, Defendants deny each
16 and every allegation therein.

17 13. In answer to Paragraph 13 of Plaintiffs' Complaint, Defendants deny each
18 and every allegation therein.

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1 14. In answer to Paragraph 14 of Plaintiffs' Complaint, Defendants admit that
2 Sonia Rodriguez was appointed to serve on the City Council, and did not retain
3 her seat in the following election. Except as specifically admitted, all other
4 remaining allegations are denied.

5 15. In answer to Paragraph 15 of Plaintiffs' Complaint, Defendants admit that
6 the 2010 U.S. Census Bureau data state that the City of Yakima has a total
7 population of 91,067. Defendants are without knowledge or information
8 sufficient as to form a belief as to the truth of the remaining allegations and,
9 hence, deny each and every allegation not specifically admitted.

10 16. In answer to Paragraph 16 of Plaintiffs' Complaint, Defendants are
11 without knowledge or information sufficient as to form a belief as to the truth of
12 the allegations and, hence, deny each and every allegation therein.

13 17. In answer to Paragraph 17 of Plaintiffs' Complaint, Defendants are
14 without knowledge or information sufficient as to form a belief as to the truth of
15 the allegations and, hence, deny each and every allegation therein.

16 18. In answer to Paragraph 18 of Plaintiffs' Complaint, Defendants are
17 without knowledge or information sufficient as to form a belief as to the truth of
18 the allegations and, hence, deny each and every allegation therein.

19
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1 19. In answer to Paragraph 19 of Plaintiffs' Complaint, Defendants deny each
2 and every allegation therein.

3 20. In answer to Paragraph 20 of Plaintiffs' Complaint, Defendants deny each
4 and every allegation therein.

5 21. In answer to Paragraph 21 of Plaintiffs' Complaint, Defendants are
6 without knowledge or information sufficient as to form a belief as to the truth of
7 the allegations and, hence, deny each and every allegation therein.

8 22. In answer to Paragraph 22 of Plaintiffs' Complaint, Defendants are
9 without knowledge or information sufficient as to form a belief as to the truth of
10 the allegations and, hence, deny each and every allegation therein.

11 23. In answer to Paragraph 23 of Plaintiffs' Complaint, Defendants are
12 without knowledge or information sufficient as to form a belief as to the truth of
13 the allegations and, hence, deny each and every allegation therein.

14 24. In answer to Paragraph 24 of Plaintiffs' Complaint, Defendants deny each
15 and every allegation therein.

16 25. In answer to Paragraph 25 of Plaintiffs' Complaint, Defendants deny each
17 and every allegation therein.

18 26. In answer to Paragraph 26 of Plaintiffs' Complaint, Defendants deny each
19 and every allegation therein.

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1 27. In answer to Paragraph 27 of Plaintiffs' Complaint, Defendants deny each
2 and every allegation therein.

3 **COUNT ONE**

4 **SECTION 2 OF THE VOTING RIGHTS ACT OF 1965**

5 28. Defendants reallege and reavow their answers to the allegations contained
6 in Paragraphs 1 through 27 of Plaintiffs' Complaint, and incorporate the same by
7 reference as though fully set forth herein.

8 29. In answer to Paragraph 29 of Plaintiffs' Complaint, Defendants deny each
9 and every allegation therein.

10 30. In answer to Paragraph 30 of Plaintiffs' Complaint, Defendants deny each
11 and every allegation therein.

12 31. In answer to Paragraph 31 of Plaintiffs' Complaint, Defendants deny each
13 and every allegation therein.

14 32. In answer to Paragraph 32 of Plaintiffs' Complaint, Defendants deny each
15 and every allegation therein.

16 33. In answer to Paragraph 33 of Plaintiffs' Complaint, Defendants deny each
17 and every allegation therein.

18 BY WAY OF FURTHER ANSWER AND FOR THEIR ADDITIONAL
19 DEFENSES, Defendants deny Plaintiffs' Prayer for Relief in its entirety, deny all

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1 factual allegations not specifically admitted, and as additional defenses to
2 Plaintiffs' Complaint, some of which are affirmative defenses and some of which
3 relate to Plaintiffs' failure to meet Plaintiffs' burden of proof, Defendants allege
4 as follows:

5 A. The Complaint fails to state a claim upon which relief can be granted.

6 B. The named Plaintiffs lack standing to assert the claims set forth in the
7 Complaint.

8 C. The relief sought by Plaintiffs constitutes racial gerrymandering of
9 voting districts in violation of the Fourteenth Amendment to the United
10 States Constitution.

11 D. The relief sought by Plaintiffs impermissibly departs from the one-
12 person, one-vote principle in violation of the Fourteenth Amendment to
13 the United States Constitution.

14 E. The Complaint is deficient and subject to dismissal due to the failure by
15 the Plaintiffs to name those persons necessary to afford full and proper
16 relief under Federal Rule of Civil Procedure 19. Specifically, the
17 Defendants lack the legal authority to effect or to approve any voting
18 districting plan because the Yakima City Charter specifies the voting
19 districting provisions, and the Yakima City Charter can only be

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1 amended if the proposed charter amendment is approved by a majority
2 of registered voters who vote on the amendment.

3 F. The Complaint is barred by the affirmative defense of illegality. The
4 Complaint violates Section 2 of the Voting Rights Act's prohibition
5 against voting schemes designed to effect racially proportional
6 representation.

7 G. The individually named City Council members are not proper
8 Defendants under applicable law and should be dismissed in their
9 official capacities.

10 H. The Complaint is barred by the applicable statute of limitations.

11 I. The Complaint is barred, in whole or in part, by laches.

12 WHEREFORE, having answered Plaintiffs' Complaint, Defendants pray as
13 follows:

14 1. That Plaintiffs' Complaint be dismissed with prejudice without an award of
15 attorney fees and costs;

16 2. That Defendants be awarded attorney fees and costs in defending this
17 action under 42 U.S.C. § 1973l(e) and all other applicable statutes and principles
18 of law;

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1 3. That Defendants be awarded further relief that this Court deems just and
2 equitable under the circumstances and pursuant to applicable law.

3 **V. DEMAND FOR JURY**

4 Should this matter proceed to trial, Defendant demands that all issues of fact
5 be determined by a jury.

6
7 DATED this 19 day of September, 2012.

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9
10

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1 CERTIFICATE OF SERVICE

2 I hereby certify that I electronically filed the foregoing with the Clerk of
3 the Court via the CM/ECF System, which will send notification of such filing to
4 the following:

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DEFENDANTS' ANSWER TO
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DATED this 19 day of September, 2012.



Simone Sellers, Legal Assistant

DEFENDANTS' ANSWER TO
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