

# **Exhibit S**

YAKIMA COUNTY GENERAL ELECTION NOVEMBER 3, 1998 YAKIMA COUNTY TREASURER YAKIMA COUNTY COMMISSIONER Page 14. 10

Precinct	Voters	Trnout	Pct	1	2	3	4	5	6	7	8	9	10	11	12
==> Absentee Totals	0	29119	0.0	6305	19	21902	807			6638	13	21246	1136		
==> Total Votes	90469	53958	59.6	11509	24	40705	1622			12046	21	39712	2081		

C O L U M N L E G E N D

1: YAKIMA COUNTY  
TREASURER  
Blank Votes

4: YAKIMA COUNTY  
TREASURER  
Writein Votes

7: YAKIMA COUNTY  
COMMISSIONER DIST. 3  
Blank Votes

10: YAKIMA COUNTY  
COMMISSIONER DIST. 3  
Writein Votes

2: YAKIMA COUNTY  
TREASURER  
Over Votes

5:

8: YAKIMA COUNTY  
COMMISSIONER DIST. 3  
Over Votes

11:

3: YAKIMA COUNTY  
TREASURER  
NANCY E. DAVIDSON REP

6:

9: YAKIMA COUNTY  
COMMISSIONER DIST. 3  
JESSE S. PALACIOS REP

12:

# **Exhibit T**

YAKIMA COUNTY GENERAL ELECTION NOVEMBER 5, 2002 YAKIMA COUNTY TREASURER AND COMMISSIONER, 3RD DIST. Page 13.

R E C A P	Voters	Trnout	Pct	1	2	3	4	5	6	7	8	9	10	11	12
TURNOUT AT POLLS LEG 13	8978	1477	16.5	330	0	1106	33		94	0	369	1003	3		
ABSENTEE LEG DIST 13	0	4063	0.0	914	3	3080	58		246	3	1067	2728	11		
VOTE-BY-MAIL LEG DIST 13	682	206	30.2	52	0	152	1		14	0	49	142	0		
TOTAL VOTES LEG DIST 13	9660	5746	59.5	1296	3	4338	92		354	3	1485	3873	14		
TURNOUT AT POLLS LEG 14	49866	7428	14.9	1743	2	5493	161		592	7	2137	4619	44		
ABSENTEE LEG DIST 14	0	21558	0.0	4865	22	16216	397		1581	31	6517	13292	79		
VOTE-BY-MAIL LEG DIST 14	2647	801	30.3	205	2	584	7		79	0	186	529	4		
TOTAL VOTES LEG DIST 14	52513	29787	56.7	6813	26	22293	565		2252	38	8840	18440	127		
TURNOUT AT POLLS LEG 15	25125	3713	14.8	858	0	2720	121		215	2	1119	2350	13		
ABSENTEE LEG DIST 15	0	8589	0.0	1861	5	6504	200		483	3	2672	5388	24		
VOTE-BY-MAIL LEG DIST 15	2325	800	34.4	173	0	613	13		46	0	198	554	1		
TOTAL VOTES LEG DIST 15	27450	13102	47.7	2892	5	9837	334		744	5	3989	8292	38		
TOTAL VOTES AT THE POLLS	83969	12618	15.0	2931	2	9319	315		901	9	3625	7972	60		
TOTAL ABSENTEE VOTES	0	34210	0.0	7640	30	25800	655		2310	37	10256	21408	114		
TOAL VOTE-BY-MAIL VOTES	5654	1807	32.0	430	2	1349	21		139	0	433	1225	5		
TOTAL VOTES CAST	89623	48635	54.3	11001	34	36468	991		3350	46	14314	30605	179		

C O L U M N   L E G E N D

1: YAKIMA COUNTY TREASURER Blank Votes	4: YAKIMA COUNTY TREASURER Writein Votes	7: YAKIMA COUNTY COMMISSIONER, 3RD DIST. Over Votes	10: YAKIMA COUNTY COMMISSIONER, 3RD DIST. Writein Votes
2: YAKIMA COUNTY TREASURER Over Votes	5:	8: YAKIMA COUNTY COMMISSIONER, 3RD DIST. WYLIE G. MILLS      D	11:
3: YAKIMA COUNTY TREASURER ILENE THOMSON      R	6: YAKIMA COUNTY COMMISSIONER, 3RD DIST. Blank Votes	9: YAKIMA COUNTY COMMISSIONER, 3RD DIST. JESSE S. PALACIOS      R	12:

# **Exhibit U**

Yakima County General Election

November 4, 2003

\*\* Final Report \*\*

Number 15.

=====			=====			=====		
UNION GAP SCHOOL DIST.	6/ 6		YAKIMA SCHOOL DIST.	30/ 30		EAST VALLEY SCHOOL DIST.	11/ 11	
SCHOOL DIRECTOR DIST. 1	100.0		SCHOOL DIRECTOR POS. 3	100.0		SCHOOL DIRECTOR DIST. 1	100.0	
-----			-----			-----		
LOUISE A. SISK	NP	322 53.5	RICK SADER	NP	3687 30.8	ANNE DILLINGER	NP	2313 78.6
DON MITTLIEDER	NP	219 36.4	ROBERT JAMES TUTTLE	NP	5726 47.8	Writein Votes		73 2.5
Writein Votes		5 0.8	Writein Votes		112 0.9	Blank Votes		558 19.0
Blank Votes		56 9.3	Blank Votes		2451 20.5	Over Votes		0 0.0
Over Votes		0 0.0	Over Votes		8 0.1	=====		
=====			=====			=====		
UNION GAP SCHOOL DIST.	6/ 6		YAKIMA SCHOOL DIST.	30/ 30		EAST VALLEY SCHOOL DIST.	11/ 11	
SCHOOL DIRECTOR DIST. 2	100.0		SCHOOL DIRECTOR POS. 4	100.0		SCHOOL DIRECTOR DIST. 3	100.0	
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RANDY L. SPERLE, SR.	NP	469 77.9	STEVE CAMERER	NP	4549 38.0	JAMES S. PENNING	NP	2326 79.0
Writein Votes		16 2.7	VICKIE D. YBARRA	NP	5595 46.7	Writein Votes		67 2.3
Blank Votes		117 19.4	Writein Votes		87 0.7	Blank Votes		551 18.7
Over Votes		0 0.0	Blank Votes		1748 14.6	Over Votes		0 0.0
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UNION GAP SCHOOL DIST.	6/ 6		YAKIMA SCHOOL DIST.	30/ 30		EAST VALLEY SCHOOL DIST.	11/ 11	
SCHOOL DIRECTOR POS. 2	100.0		SCHOOL DIRECTOR POS. 5	100.0		SCHOOL DIRECTOR DIST. 4	100.0	
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CARRIE GREENOUGH	NP	499 82.9	MARTHA RICE	NP	8833 73.7	KEVIN SCHOONOVER	NP	2326 79.0
Writein Votes		11 1.8	Writein Votes		269 2.2	Writein Votes		68 2.3
Blank Votes		92 15.3	Blank Votes		2879 24.0	Blank Votes		550 18.7
Over Votes		0 0.0	Over Votes		3 0.0	Over Votes		0 0.0
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NACHES VALLEY SCHL DIST.	15/ 15		WAHLUKE SCHOOL DIST.	1/ 1		GRANDVIEW SCHOOL DIST.	9/ 9	
SCHOOL DIRECTOR DIST. 1	100.0		SCHOOL DIRECTOR DIST. 1	100.0		SCHOOL DIRECTOR DIST. 1	100.0	
-----			-----			-----		
DON FLYCKT	NP	1544 75.0	BRIAN TALBOT	NP	0 0.0	LYDIA MORENO	NP	1091 76.0
Writein Votes		35 1.7	Writein Votes		0 0.0	Writein Votes		38 2.6
Blank Votes		479 23.3	Blank Votes		0 0.0	Blank Votes		306 21.3
Over Votes		1 0.0	Over Votes		0 0.0	Over Votes		0 0.0
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NACHES VALLEY SCHL DIST.	15/ 15		WAHLUKE SCHOOL DIST.	1/ 1		GRANDVIEW SCHOOL DIST.	9/ 9	
SCHOOL DIRECTOR DIST. 4	100.0		SCHOOL DIRECTOR DIST. 3	100.0		SCHOOL DIRECTOR DIST. 3	100.0	
-----			-----			-----		
GEORGE D. PICKARD	NP	1526 74.1	JEF GALLACCI	NP	0 0.0	TONY GONZALEZ	NP	1112 77.5
Writein Votes		63 3.1	Writein Votes		0 0.0	Writein Votes		38 2.6
Blank Votes		466 22.6	Blank Votes		0 0.0	Blank Votes		285 19.9
Over Votes		4 0.2	Over Votes		0 0.0	Over Votes		0 0.0
-----			-----			-----		
NACHES VALLEY SCHL DIST.	15/ 15		WAHLUKE SCHOOL DIST.	1/ 1		GRANDVIEW SCHOOL DIST.	9/ 9	
SCHOOL DIRECTOR DIST. 5	100.0		SCHOOL DIRECTOR POS. 4	100.0		SCHOOL DIRECTOR DIST. 4	100.0	
-----			-----			-----		
DOUG MAC NEIL	NP	1550 75.3	KIP CALAWAY	NP	0 0.0	TIMOTHY E. GROW	NP	1230 85.7
Writein Votes		61 3.0	Writein Votes		0 0.0	Writein Votes		30 2.1
Blank Votes		445 21.6	Blank Votes		0 0.0	Blank Votes		175 12.2
Over Votes		3 0.1	Over Votes		0 0.0	Over Votes		0 0.0
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# **Exhibit V**

**Defendants' Senate Factors Expert Report**

Stephan Thernstrom, Ph.D.

Harvard University

April 5, 2013

*Montes, et al. v. City of Yakima, et al.*

United States District Court for the Eastern District of Washington

Cause No. 12-cv-3108-TOR

political leaders had a crystal ball to tell them that Yakima would before long become a magnet for Latino migrants. This is another instance in which Dr. Fraga leaps to conclusions untethered to the evidence.

Dr. Fraga devotes a dozen pages of his report to a detailed examination of the unsuccessful campaigns for the council conducted by three Latinos in the 2009 and 2011 elections. [27-39.] According to him, “elements of each of these campaigns reflect the use of subtle racial appeals” that tainted the results. [27.] The first necessary step to take in evaluating evidence that supposedly shows the use of forbidden racial appeals in the course of campaigns is to clarify what is meant by the term “racial appeal” in this context. There always will be disagreement about exactly where to draw the line, but looking at both ends of the spectrum ought to help clarify the matters. The Senate Committee that drew up the 1982 list of “Senate Factors” included “the use of overt or subtle racial appeals in political campaigns.” The Senators had heard testimony that referred to examples in which a Caucasian candidate said things like “if this black man ever gets into office, we’ll be in big trouble.” That’s surely a blatant racial appeal. A milder statement like “I’m the only Caucasian in the race” would also presumably flunk this test.

At the opposite end of the spectrum, most people would think, would be statements by a minority candidate that alluded to their ethnic background in some way and reflected on how their lives had been affected by their origins. President Barack Obama’s successful race for the presidency in 2008 obviously fits this category. He appeared before a number of African-American audiences, and often spoke about matters of race. Certainly he never pretended that he was of Caucasian and only Caucasian origin. Would anyone say that President Obama made “racial appeals” that improperly influenced the outcome in November?

Now consider where Dr. Fraga draws the line between calls a “racial appeal” and mere references to race and ethnicity in the course of campaigns in Yakima. Unless I have completely misunderstood him, he doesn’t draw a line at all. Any reference to the ethnic

background of a candidate, he appears to be saying, constitutes a “racial appeal.” Over the years I have read a good many reports by plaintiff experts who testified that racial appeals had been used in the course of political campaigns, but I have never seen one that approaches the issue in this absolutist way. Dr. Fraga’s conception of a racial appeal is preposterously expansive.

Dr. Fraga is dismayed that in these three campaigns “the Latino origin” of the candidates was “openly discussed and is likely to have affected how voters evaluated these Hispanic candidates.” [27.] Since such considerations might be salient to voters, in his view, it is illegitimate for them to be “openly discussed.” In the case of Sonia Rodriguez, he notes that after she was given a temporary appointment to fill out a term on the council, the newspaper said that was “believed to be the first Latino to serve on the City Council in Yakima’s 122-year history.” The mayor, according to the paper, had “openly campaigned for a Latino on the all-white council,” and after he succeeded in appointing Ms. Rodriguez he remarked that we “did something that was really important today.” [28-30.] The paper subsequently referred to Ms. Rodriguez as an “ethnic icebreaker,” and quoted the mayor’s opinion that “she seems to understand the weight of being a Latina in this situation.” The candidate herself said that she was “interested in giving voice to a community that has lived in the shadow in Yakima.” All of these innocuous comments, not only from the mouths of Caucasians who were indubitably supporters of Rodriguez but from the candidate herself, rang an alarm bell for Dr. Fraga. These remarks, he maintains, might have tipped the election. In other words, any statements that suggest the race or ethnicity of a specific candidate amount to a forbidden “racial appeal.”

Thus the newspaper tainted the election by mentioning that the appointment of Sonia Rodriguez to the council made her a “first.” That was beyond the bounds. Nor should the candidate herself have revealed her origins and her identification with the city’s Hispanic community. Presumably she should never have joined the Washington State Hispanic Bar Association either, anticipating that membership in any ethnic organization would blight the campaign if she were to run for public office someday. It would seem that Dr. Fraga believes that if anyone had asked candidate Rodriguez a question about how her life

experiences had led her to venture into electoral politics, Ms. Rodriguez should have responded by giving nothing more than her name, rank, and serial number. It is curious that Dr. Fraga supports this lawsuit, but wants all references to ethnic origins, even by the candidates themselves, to be erased from public discourse.

Of course he cannot be serious about this. He knows that Yakima is not a vast impersonal metropolis like Chicago or Los Angeles. Local people who have lived there for any length of time tend to know the background of office-holders and candidates. Even if all public references to such matters were somehow suppressed, many Latino names are markers of ethnic origins. Does he envision a ballot in which the candidates are designated as “Candidate No. 1,” “Candidate No. 2,” etc.? Presumably the contestants could not give speeches before large crowds or appear on television either, if their physical appearance might be a clue to their origins.

This off-the-wall argument, though, does make a certain sense, given his perspective on these matters. Dr. Fraga fervently believes that the city’s electoral processes are unfair and need to be changed. He is sure that Yakima Caucasians feel so much racial animus against Latinos that Hispanic candidates cannot win at-large elections unless most voters don’t even know that their ethnic identity. Such anonymity is manifestly unattainable, at least in a city as small as Yakima. Given that, Dr. Fraga’s tortured argument about what constitutes a “racial appeal” is not wholly illogical.

Dr. Fraga’s implicit conclusion that a candidate’s identification as a Latino is an insurmountable barrier to winning an election at-large elected office is demonstrably false. Latino candidates who did not attempt to conceal their ethnic origins have already been elected to the School Board several times, although you wouldn’t know if from reading the Fraga Report.

# **Exhibit W**

May 23, 2014

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

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ROGELIO MONTES and MATEO )  
ARTEAGA, )  
Plaintiffs, )  
vs. )  
CITY OF YAKIMA; MICAH CAWLEY, ) 2:12-cv-03108-TOR  
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. )

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DEPOSITION UPON ORAL EXAMINATION OF  
LUZ BAZAN GUTIERREZ

9:59 a.m.

MAY 23, 2014

6 SOUTH SECOND STREET, SUITE 1001

YAKIMA, WASHINGTON

REPORTED BY: ELEANOR MITCHELL, RPR, CCR 3006

1 be.

2 Q. Do you think it's important for a  
3 councilmember to be elected by the entire city?

4 A. Well, that's what the at-large do, and that's  
5 where it is right now.

6 Q. Right. No, I'm asking: Do you think it's a  
7 good idea or important for a councilmember to be  
8 elected by the entire city?

9 MS. BAKER: Object. Vague.

10 Q. (BY MR. SAFARLI.) Let me ask it this way: Do  
11 you think there's any benefit from having an elected  
12 official elected on a citywide basis?

13 A. I think it is better to have elections  
14 representatives within each district and then have the  
15 three elected at large by everyone.

16 Q. So you think there is a benefit to having  
17 some --

18 MS. BAKER: Asked and answered.

19 Q. (BY MR. SAFARLI.) Just want to make sure I'm  
20 understanding your testimony.

21 MS. BAKER: Objection. You've asked her  
22 four times or five times before I even bothered to  
23 object.

24 Q. (BY MR. SAFARLI.) So I just want to  
25 understand: You're saying there is a benefit to having

1 some at-large representation?

2 A. Some.

3 Q. Do you think that the current -- current city  
4 council is responsive to the needs of the Latino  
5 community? I'm referring to the current city council.

6 A. No.

7 Q. Okay. And why do you say that?

8 A. Because if you see who are the members of the  
9 current city council, I think they -- they basically  
10 represent the -- the majority population.

11 Q. And when you say "majority population," what  
12 do you mean?

13 A. The white population.

14 Q. So you think that the current city council  
15 does not -- is not responsive to the needs of the  
16 Latino community 'cause there are no Latinos on the  
17 city council?

18 MS. BAKER: Object. Mischaracterizes  
19 prior testimony.

20 Q. (BY MR. SAFARLI.) Go ahead and answer if you  
21 can. Go ahead and answer if you can.

22 A. Repeat it?

23 Q. Sure. So is it your testimony that the  
24 current city council is not responsive to the needs of  
25 the Latino community because there are no Latinos on