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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ROGELIO MONTES and MATEO ARTEAGA,

Plaintiffs,

v.

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. 12-CV-3108 TOR

PLAINTIFFS' RESPONSE TO DEFENDANTS' MEMORANDUM IN SUPPORT OF DEFENDANTS' PROPOSED REMEDIAL REDISTRICTING PLAN AND INJUNCTION

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I. INTRODUCTION

Defendants' Memorandum in Support of their Proposed Remedial Plan asks the Court to trust the Yakima City Council to resolve the Section 2 violation on its own, relying on the principle of judicial deference. But their Proposed Remedial Plan inspires little trust or confidence, and it warrants even less. The Plan's violation of multiple provisions of state law renders it ineligible for adoption by the Court. Defendants' Plan fares no better under the VRA: rather than providing a complete remedy now, Defendants suggest that Latinos in Yakima should instead wait several more years for full and fair representation.

Defendants' presentation of their Plan to the Court is equally problematic. Not only have Defendants attempted to "amend" their Resolution adopting the Plan through an unsigned letter from counsel rather than formal legislative action, Defendants have advised the Court that, under their own theory of electoral equality, even they believe their Proposed Remedial Plan violates constitutional requirements and the VRA. In short, Defendants ask the Court to defer to a proposed remedy that is wholly inadequate.

Accordingly, Plaintiffs respectfully request that the Court adopt Plaintiffs' Proposed Remedial Plan, which would provide real and immediate relief to Yakima's Latino voters.

II. ARGUMENT

A. Defendants' Proposed Remedial Plan Violates State Law

In their previous submission, Plaintiffs noted that Defendants' proposed

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election scheme for Mayor and Assistant Mayor violates state law. ECF No. 117 ("Pls.' Br.") at 5. The next business day, Defendants responded with a letter to the Court, arguing that their plan is "not clearly unlawful," and pointing to a provision purporting to authorize their election scheme for Mayor. ECF No. 119 (citing RCW 35A.13.033). Nonetheless, Defendants promptly withdrew their proposal that the two at-large representatives be designated Mayor and Assistant Mayor. *Id.* But Defendants' last-minute tinkering with their proposed remedial plan has not cured the state law violation.

As an initial matter, it appears Defendants have not officially amended the Resolution approving their proposed remedial plan.[1] In their Memorandum in support of their remedial scheme, Defendants point out several times that the City has officially endorsed the plan through a formal resolution. *See* ECF No. 113 ("Defs.' Br.") at 2 (citing to the resolution itself as well as the video of the special public meeting adopting it); *id.* at 13 (noting that "Defendants' Proposed Remedial Plan was fashioned in response to this Court's order, but was approved through the adoption of a resolution at a special public meeting of the City Council"); *id.* at 14 (arguing Defendants' plan "was carefully considered by the City Council and ultimately expressed through its resolution adopted at the special public meeting on September 30"). That resolution specifically provides that "the candidate who receives the most votes will be

[1] Plaintiffs have reviewed all published City Council meeting agendas and minutes since Defendants' October 6, 2014 letter to the Court, and they have found no evidence of official, public action taken by the City Council with respect to Resolution No. R-2014-118.

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elected to the City Council as Mayor" and "the candidate who receives the second-most votes will be elected to the City Council as Assistant Mayor." ECF No. 115, Ex. C, at 1-2. However "carefully considered" the original resolution was, Defendants' last-minute amendment to the Resolution, presented in an unsigned letter from Defendants' counsel and without any formal action by the City Council, reflects a hasty effort to cure the plan's infirmity upon being confronted with the basic requirements of state law.[2] A letter from counsel purporting to amend a duly-passed resolution is not a

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[2] Defendants complain that Plaintiffs' counsel never informed them of state law requirements during the parties' meet and confer to determine whether they could agree on a proposed remedy. ECF No. 119. To be sure, Plaintiffs objected to Defendants' proposed remedial scheme, including the at-large election of the Mayor and Assistant Mayor, as a violation of the VRA, and it was clear at the end of the parties' meet and confer that the parties would not agree on a proposed remedial plan. Plaintiffs had not at that time had an opportunity to fully research and compile every argument against Defendants' plan, nor were they required to do so. To the extent Defendants suggest that Plaintiffs' counsel were obligated to vet Defendants' plan against state law and inform Defendants of the fruits of their research, they are mistaken. *See Belmont Cmty. Hosp. v. Quong Yick Co. Erisa Plan*, No. 90-C-2610, 1991 WL 246521, at *2 (N.D. Ill Nov. 13, 1991) ("It is certainly not the responsibility of opposing counsel to research the facts and law relevant to a proposed claim prior to filing.").

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legislative act meriting the Court's deference. *See Williams v. City of Texarkana, Ark.*, 32 F.3d 1265, 1268 (8th Cir. 1994) (no deference required where there was "no evidence of a resolution or other action by the Board of Directors officially endorsing or recommending the 6-1 plan"); *Garza v. Cnty. of Los Angeles*, 918 F.2d 763, 776 (9th Cir. 1990) (no deference required where "the proposal was not an act of legislation" but rather "a suggestion by some members of the Board, entitled to consideration along with the other suggestions that had been received").[3]

In any event, even if it were a legislative act, Defendants' amendment to the Resolution only compounds the state law violation. Under Washington law: "Councilmembers may be elected on a citywide or townwide basis, or from wards or districts, or any combination of these alternatives. *Candidates shall run for specific positions*." RCW 35.18.020(2) (emphasis added). Defendants' Plan, as revised in counsel's letter, proposes two generic, at-large positions. In contrast to Defendants' proposed five district-based positions,

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[3] Nor can Defendants seek refuge in the Resolution provision authorizing Defendants' counsel to "take all other necessary steps" to bring the City's proposed remedial plan "in compliance with the court's interpretation of Section 2 of the Voting Rights Act." ECF No. 115, Ex. C, at 2. Counsel's withdrawal of the provision relating to the Mayor and Assistant Mayor was not in service of Section 2, but rather was an attempt to comply with state law. *See Large v. Fremont Cnty.*, 670 F.3d 1133, 1145 (10th Cir. 2012) (noting distinction between state laws that are necessarily implicated by Section 2 and those that are not).

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"which require[] candidates to file for a particular seat and compete only against other candidates who are running for the same seat," Defs.' Br. at 2, all candidates who file for an at-large position under their proposed plan "will appear in a single list on the general election ballot," *id.* at 3. At-large candidates will thus not "run for specific positions" under Defendants' proposal as state law requires, RCW 35.18.020(2), but will run for either of two positions on the City Council, whichever happens to befall them once the votes are tallied.[4]

It is, therefore, hardly surprising that neither Plaintiffs nor Defendants have identified any other jurisdiction in Washington that has an election system resembling Defendants' proposed "limited voting" system. *See* Pls.' Br. at 10-11. Whatever its potential merits, Washington law does not authorize such a system. *Dillard v. Baldwin Cnty. Comm'rs*, 376 F.3d 1260, 1268 (11th Cir. 2004) (rejecting proposed election scheme because it "simply d[id] not occupy a traditional and accepted place in [the state's] legislatively enacted voting schemes") (internal quotation marks and citation omitted). Defendants' attempt to analogize their Plan to existing Washington law fails. Although Defendants repeatedly contend that their proposed scheme is "identical" to Washington's "Top 2 Primary," *see* Defs.' Br. at 3, 14, 18, that characterization misrepresents the fundamental difference between the two: namely, that the

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[4] Defendants' original Resolution somewhat allayed this problem, as candidates would presumably run for the specific position of Mayor. Even under that proposed scheme, however, there would be no way to run for the specific position of Assistant Mayor.

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latter is a method of selecting candidates in the *primary*, not the general election. Candidates in the Top 2 Primary run for a specific position, and the two candidates who receive the most votes advance to the general election in a head-to-head competition for that position. *See* https://wei.sos.wa.gov/agency/osos/en/voters/Pages/top_2_primary.aspx ("A Top 2 Primary narrows the number of candidates to two. The two candidates who receive the most votes in the Primary advance to the General Election."). Washington's Top 2 Primary is the same as the primary system envisioned for each of Plaintiffs' proposed seven districts, the primary system Defendants envision for their proposed five districts, Defs.' Br. at 2, and the primary system under which Yakima City Council elections are currently operating, ECF No. 108 at 51, 63.[5] It is decidedly *not* "identical" to Defendants' proposed at-large scheme, which would do away with primaries altogether and have the top two candidates win either of two positions in the decisive election.

In fact, Defendants' repeated reference to the "Top 2 Primary" only highlights yet another infirmity of their at-large scheme: contrary to Washington law, it does not incorporate a primary at all. Defs.' Br. at 3 ("No primary election will be held for the at-large positions."). RCW 29A.52.210 "establish[es] the holding of a primary . . . as a uniform procedural requirement to the holding of city, town, and district elections." This requirement "supersede[s] any and all other statutes, whether general or special in nature,

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[5] While these proposed and existing primary systems involve nonpartisan elections, Washington's Top 2 Primary applies only to partisan offices. RCW 29A.52.112(2).

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having different election requirements." *Id.* Pursuant to this "uniform" procedure, "[a]ll city and town primaries shall be nonpartisan," *id.*, and "must be held on the first Tuesday of the preceding August" before a general election, RCW 29A.04.311. Defendants' proposal to jettison the primary altogether for two of the seven positions on the City Council contravenes the basic requirement under state law that a primary be held when more than two candidates run for a specific position.

In sum, Washington law contemplates only three types of City Council elections in a council-manager system such as that used in Yakima: at-large elections in which candidates run for specific seats, district-based elections in which candidates run for specific seats, or a mix of the two. Each of these election systems requires a primary election to winnow candidates down to two. Defendants' "limited voting" system, in which an unlimited number of candidates proceed directly to a general election in the hopes of securing any position on the City Council, does not fall under any of these categories. Because adoption of the at-large feature of Defendants' plan would run afoul of multiple provisions of state law, Defendants' proposed remedial plan warrants no deference by this Court. *See Large*, 670 F.3d at 1144 (local governmental bodies may not "as a matter of preference" "disregard the dictates of state law in fashioning their plans and still claim the judicial deference for their handiwork that is traditionally accorded to legislative plans"); *id.* at 1148 (VRA does not provide "carte blanche for local governments seeking to flout otherwise valid state laws"); *Dillard*, 376 F.3d at 1268 ("[A]ny remedy for a Voting Rights Act violation must come from within the confines of the state's system of government.") (internal quotation marks and citation omitted).

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B. Dr. Morrison's Analysis Provides No Justification for Defendants' Proposed Remedial Plan

Defendants rely on Dr. Morrison's new projections and analysis to conclude that their proposed District 5 is comparable to Plaintiffs' Proposed District 2 and that the continued use of at-large elections in Yakima will only benefit Latino voters. *See* Defs.' Br. at 4-5. But Dr. Morrison's conclusions are problematic on multiple levels.

First, Dr. Morrison provides no basis whatsoever for his "projections" regarding the LCVAP of Defendants' District 5 in 2017 or 2020. Dr. Morrison's declaration unequivocally states that Defendants' District 5 "will have at least the same percentage of eligible Hispanic voters that Plaintiffs' District 2 currently has (45.34%) by 2020." ECF No. 114 ¶ 3. He further avers that "[i]n 2017, Latinos will compromise 43% of eligible voters" in that District. *Id.* ¶ 9. But Dr. Morrison provides no basis or supporting analysis for these figures. Declaration of Abha Khanna in Support of Plaintiffs' Response to Defendants' Proposed Remedial Plan (Oct. 23, 2014), Ex. 1 ("Cooper 4th Supp. Decl."), ¶ 7. Dr. Morrison's only support for this claim is a reference to a PowerPoint presentation he made in Texas earlier this year, which provides no model or data for projecting LCVAP in *any* Yakima City Council districts, let alone Defendants' proposed districts. *See id.* ¶ 8. Dr. Morrison's "projections," therefore, are little more than speculation and provide no hard data upon which the Court (or Latino voters) can rely. *Cf. Benavidez v. Irving Indep. Sch. Dist.*, No. 3:13-CV-0087-D, 2014 WL 4055366, at *17 (N.D. Tex. Aug. 15, 2014) (rejecting defendants' attempt to

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rely on "future growth projections to prove that the share of Hispanic CVAP is greater than 50%").

Second, Dr. Morrison's analysis fails to consider the registered voter populations of the relevant districts. Dr. Morrison suggests that both Plaintiffs' District 2 and Defendants' District 5 are "influence" districts. ECF No. 114 ¶ 9. In so doing, Dr. Morrison conveniently ignores that Plaintiffs' District 2 is an effective Latino opportunity district, as Latinos currently comprise a majority of its registered voters. *See* Pls.' Br. at 11-12. Defendants' District 5, by contrast, includes a Latino registered voter population of just 32.98%. *Id.* at 12; *see also* Cooper 4th Supp. Decl. ¶ 4. Even assuming constant voter registration rate increases in step with Dr. Morrison's unsupported LCVAP "projections," Latino registered voters would constitute only 43% of registered voters in Defendants' District 5 by 2020, "still about 10 percentage points below the *current* percentage in Plaintiffs' District 2." Cooper 4th Supp. Decl. ¶ 12 (emphasis added).

Third, even if Dr. Morrison's projections were accurate, such that Defendants could truly promise that Latinos will have an opportunity to elect their candidate of choice in District 5 by 2020, neither he nor Defendants provide any justification for making Latinos wait six years for an opportunity they could have right now. *See* Defs.' Br. at 5 ("[I]n just six years, Latinos will exert as strong a force in Defendants' influence district as they now would in Plaintiffs' influence district."). Defendants' cavalier suggestion that Latinos must "simply" wait six years to attain meaningful voting strength, ECF No. 114 ¶ 9, belies the very real impact the City's Section 2 violation has had on

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Latinos for decades and continues to have today. Defendants' proposal, which dangles the carrot of future voting opportunities in place of real opportunities now, provides a partial remedy at best.[6]

Dr. Morrison's conclusions regarding the overall benefits of Defendants' proposed remedial plan are no more persuasive. Defendants contend that their proposal "is superior to Plaintiffs [sic] in that Districts 1 and Districts 5 [sic] in Defendants' Proposed Remedial Plan contain a combined 56.3% of all eligible Latino voters," while Plaintiffs' Districts 1 and 2 contain 40.6%. Defs.' Br. at 10. As noted above, the premise of Defendants' argument fails, since all of the eligible Latino voters in Plaintiffs' Districts 1 and 2 will have a real opportunity to elect their preferred candidates upon adoption of the plan, whereas the eligible Latino voters in Defendants' District 5 (25.42% of the City's total LCVAP) can only hope for such an opportunity years in the future. But even if Defendants' District 5 were to become an opportunity district, Defendants' decision to gather as many Latino voters as possible and place them in the two East side districts ensures that Latino voting strength will be limited for decades. *See Johnson v. DeGrandy*, 512 U.S. 997, 1007 (1994)

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[6] Moreover, following the release of the 2020 Census, the boundaries for Defendants' District 5 will likely change in the City's redistricting process, and there is no assurance that a realigned District 5 would be drawn as a Latino opportunity district even if it were possible to do so. *See* Cooper 4th Supp. Decl. ¶ 13; Defs.' Br. at 6. Thus, the "opportunity" promised today could well turn into a mirage tomorrow.

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(Section 2 prohibits "packing [minority voters] into one or a small number of districts to minimize their influence in the districts next door"). Defendants' plan includes five large districts, three of which contain LCVAPs of less than 20.4% and lie almost entirely west of 16th Avenue. *See* ECF No. 114, tbl.2; ECF No. 115, Ex. A. Plaintiffs' plan, by contrast, includes seven smaller districts, two of which are located primarily on the East side and reflect Latino registered voter majorities (Districts 1 and 2), and two more which straddle 16th Avenue to include portions of both the East and West sides and include LCVAPs of 24.80% and 26.69%, respectively (Method 1).[7] ECF No. 118, Ex. 1. A plan with seven smaller districts, therefore, necessarily allows for greater responsiveness to demographic changes over time; as the Latino population grows and moves westward over the next few decades, electoral districts will better reflect that growth. Defendants' five large districts maintain the stark divide between East and West sides of the City and require much more dramatic shifts in population in order for Latino voting strength to accurately reflect the City's Latino population over time. In short, the fact that Defendants' plan confines Latino voting strength to two East side districts is hardly a virtue.[8]

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[7] *See* Cooper 4th Supp. Decl. ¶ 3 n.1 (explaining benefits of Method 1 over Method 2 LCVAP calculations).

[8] Dr. Morrison further notes that the LCVAP of Plaintiffs' District 1 is lower than the LCVAP of Defendants' District 1. *See* ECF No. 114, tbl. 1 ("Hispanic share of CVAP is maximized to arithmetic upper limit" in Defendants' District

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Finally, Dr. Morrison's "rationale" for maintaining at-large districts in Yakima rings hollow given the City's history of racially polarized voting. ECF No. 114 at 5. According to Dr. Morrison, "[b]y affording Hispanic candidates for City Council the opportunity to build . . . alliances [across groups], this Court could reinforce nascent tendencies in Yakima to unify around common local interests." *Id.* ¶ 5. As an initial matter, Plaintiffs and the Court are left to guess what are the "nascent tendencies" to which Dr. Morrison refers; he points to nothing on the record to support or clarify this phrase. More importantly, Defendants would provide Latino voters in Yakima the same "opportunity" they have had for 37 years, namely, the "opportunity" to run in at-large elections in which "the non-Latino majority in Yakima routinely suffocates the voting preferences of the Latino minority." ECF No. 108 at 48. This is likely an "opportunity" Latinos would gladly forego, opting instead for real opportunities to elect their candidates of choice right now.[9]

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1). To be sure, Dr. Morrison does not dispute that Latinos will be able to elect their candidates of choice in Plaintiffs' District 1. Ironically, in his initial report Dr. Morrison criticized Mr. Cooper for "maximiz[ing]" Latino eligible voters in District 1. *See* ECF No. 69, Ex. E, ¶ 40.

[9] In fact, even Dr. Morrison suggests that unless Latino voters are placed in majority-minority districts, they "would *not* be represented by someone who feels an electoral obligation to the Hispanic community." ECF No. 114 ¶ 11; *see also* Cooper 4th Supp. Decl. ¶ 15 (noting Plaintiffs' Districts 3 and 4 have LCVAPs larger than the City's total LCVAP).

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In short, Dr. Morrison's analysis does little to advance the merits of Defendants' proposed remedial plan. It certainly provides no justification for trading immediate Latino voting opportunities for the hope of future opportunities.

C. Electoral Equality Has No Bearing on the Court's Remedy

Defendants once again assert that electoral equality "is a constitutionally-protected principle that *must* be considered in the redistricting context." Defs.' Br. at 20 (emphasis added). This rehashed argument is no more persuasive the second time around and it fails for the same reasons it failed on summary judgment: not a single court in the country has so held. In fact, the Ninth Circuit's opinion in *Garza v. County of Los Angeles*, 918 F.2d 763 (9th Cir. 1991), is all the more relevant in the remedial phase. In *Garza*, like here, the district court found the defendants in violation of Section 2. *Id.* at 767. The district court subsequently rejected the defendants' proposed remedial plan, as "the proposal was less than a good faith effort to remedy the violations found in the existing districting," and imposed its own plan. *Id.* at 768. The defendants appealed, arguing, among other things, that the remedial plan "unconstitutionally weights the votes of citizens" in the majority-minority district "more heavily than those of citizens in other districts." *Id.* at 773. The Ninth Circuit emphatically rejected the argument, holding that requiring districting on the basis of voting capability "would constitute a denial of equal protection to the[] Hispanic plaintiffs." *Id.* at 776. Defendants have devised no new way around the Ninth Circuit's holding, and indeed they cite no case law whatsoever to support their position in this remedial phase.

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Tellingly, even under their own invented standard of electoral equality, Defendants' proposed plan does not pass muster. Dr. Morrison states that he tried to balance electoral equality but found it "mathematically impossible to reduce electoral imbalance below about +50% in any five-district plan in which Hispanics comprise a clear majority of the district's CVAP." ECF No. 114 ¶ 16. Notably, Dr. Morrison does not mention even trying to determine the minimum electoral imbalance that would result from a seven-district plan. Defendants' assertion that electoral equality is a "constitutionally-protected principle" is belied by their decision to give it lower priority than their policy preference for five single-member districts.

Moreover, Defendants unabashedly state that their own proposed remedial plan "transgresses the constitutionally-protected principle" of electoral equality and "violate[s] the commands of Section 2 itself." Defs.' Br. at 22. In recognition that "this Court is unlikely to invalidate any proposed plan on this ground," however, Defendants reluctantly ask the Court to adopt their plan. *Id.* Certainly, to the extent the Court is inclined to defer to the legislative body's policy preferences, Defendants' dislike for and disapproval of their own plan should give the Court pause. It seems anathema to the rationale for judicial deference to adopt a plan that even Defendants don't support.

D. Immediate Relief is Appropriate Here

Plaintiffs contend that the Court should order that all seven City Council positions should be up for election in 2015. Pls.' Br. at 17. Defendants contend that the Court should "allow[] incumbents to serve out the remainder

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of their terms if they so choose." Defs.' Br. at 19. But Defendants' argument in support of phasing in a remedy to the City's Section 2 violation cannot withstand scrutiny.

First, Defendants equate immediate implementation of a remedial map with "invalidating" an election, but the cases they cite are inapposite. *Id.* Both *Soules v. Kauaians for Nukolii Campaign Comm.*, 849 F.2d 1176 (9th Cir. 1988), and *McMichael v. Napa County*, 709 F.2d 1268 (9th Cir. 1983), involved plaintiffs seeking to overturn elections as null and void almost immediately after they were held. Plaintiffs here do not seek to "invalidate" any election based on some flaw in its administration or a subsequent recount; they do not contend that the actions of the City Council to date are illegitimate or ultra vires. Rather, Plaintiffs contend that a complete, effective remedy must be implemented quickly to avoid allowing the Section 2 violation to linger another two years.

In any event, the cases Defendants rely upon weigh in favor of *Plaintiffs'* position. In *Soules*, the Ninth Circuit held that "equitable factors as the extremely disruptive effect of election invalidation" must be "balanced against the severity of the alleged constitutional infraction" in each particular case. 849 F.2d at 1180. Here, Defendants have identified no "equitable factors" weighing against complete relief in 2015. Six out of seven incumbents have served on the City Council for at least 5 years, and the term of the incumbent recently appointed to the City Council will expire in 2015. Several incumbents are protected under Plaintiffs' proposed remedial plan, such that they would not have to face another incumbent in a district-based election. Any incumbent

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running for election would possess the inherent electoral advantages that come with incumbency. Because Plaintiffs do not ask the Court to require a special election, but rather to use the existing 2015 election calendar, Yakima will not incur any significant additional costs. Based on the severity of the City's longstanding Section 2 violation, equity here weighs in favor of immediate relief—not years of additional delay.

The Ninth Circuit's decision in *Soules*, moreover, turned on the fact that the plaintiffs had the opportunity to challenge the election before it took place but chose not to do so. *See* 849 F.2d at 1180 ("[T]he courts have been wary lest the granting of post-election relief encourage sandbagging on the part of wily plaintiffs" who may "'lay by and gamble on receiving a favorable decision of the electorate and then, upon losing, seek to undo the ballot results in a court action.'") (quoting *Hendon v. N.C. State Bd. of Elections*, 710 F.2d 177, 182 (4th Cir. 1983)). Plaintiffs here filed suit in August 2012, and over the course of this lawsuit, another election went by under an unlawful system. Defendants can identify no reason why Latino voters should have to suffer through another 2 years of inadequate representation to avoid inconveniencing incumbents elected under that unlawful system.

Even if Plaintiffs were asking the Court to invalidate past elections, which they are not, the cases cited by Defendants make clear that election invalidation should turn on the severity of the violation. *See McMichael*, 709 F.2d at 1273 (Kennedy, J., concurring) (citing *Griffin v. Burns*, 570 F.2d 1065 (1st Cir. 1978)). In determining whether to invalidate an election, *Griffin* distinguished between "garden variety election irregularities" and "rules of

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general application which improperly restrict or constrict the franchise." 570 F.2d at 1076; *see also id.* at 1077 ("If the election process itself reaches the point of patent and fundamental unfairness, a violation of the due process clause may be indicated and relief under § 1983 therefore in order."); *id.* ("[T]here is precedent for federal relief where broad-gauged unfairness permeates an election, even if derived from apparently neutral action."). Defendants can hardly dispute that the Section 2 violation here is not a "garden variety" election irregularity. Rather, the City's at-large election system has unfairly and illegally diluted Latino voting strength for years, warranting immediate relief in 2015.

III. CONCLUSION

For all of the foregoing reasons, Plaintiffs respectfully request that the court reject Defendants' Proposed Remedial Plan and adopt Plaintiffs' Proposed Remedial Plan as an effective and timely remedy to Yakima's Section 2 violation.

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CERTIFICATE OF SERVICE

I certify that on October 23, 2014, I electronically filed the foregoing Plaintiffs' Response to Defendants' Memorandum in Support of Defendants' Proposed Remedial Redistricting Plan and Injunction with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following attorney(s) of record:

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I certify under penalty of perjury that the foregoing is true and correct.

DATED: October 23, 2014

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