

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

SMYER INDEPENDENT SCHOOL
DISTRICT; and JANE LEWIS, CHIEF
ELECTION OFFICER, in her official capacity,

Defendants.

CASE NO.

5-07CV0148-C

THREE-JUDGE COURT

COMPLAINT

The United States of America, Plaintiff herein, alleges:

1. The Attorney General of the United States hereby files this action to enforce the provisions of Section 203 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973b(f)(4), with respect to the conduct of elections in the SMYER INDEPENDENT SCHOOL DISTRICT (the "ISD").

JURISDICTION

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1345; 42 U.S.C. § 1973aa-2; and 28 U.S.C. § 2201. In accordance with the provisions of 42 U.S.C. § 1973aa-2 and 28 U.S.C. § 2284, the United States' claim brought under Section 203 of the Voting Rights Act of 1965, as amended ("Section 203"), must be heard and determined by a court of three judges.

3. Venue is proper in this court as the events relevant to this action occurred in the County of Hockley, which is located in the United States District Court for the Northern District of Texas.

PARTIES

4. Defendant ISD is an independent political unit within Hockley County and the State of Texas.

5. Defendant ISD is responsible for the ordering and administration of elections pursuant to V. T. C. A., Education Code § 11.011 and § 11.051, et seq. and V. T. C. A., Election Code §§ 3.004(a)(3) and 4.002.

6. Defendant JANE LEWIS is the ISD's Chief Election Officer and responsible for administration of elections within the ISD.

ALLEGATIONS

7. According to the 2000 Census, the ISD had a total population of 1,623, of whom 457 (28.2%) were Hispanic. The Census reported that the ISD had a total voting age population of 1,123, of whom 273 (24.3%) were Hispanic.

8. The Director of the Census has designated the County of Hockley as subject to the requirements of Section 203 of the Voting Rights Act for Spanish. See 42 U.S.C. § 1973aa-1a(b)(2); see also 67 Fed. Reg. 48,871 (July 26, 2002). As a political unit within the County of Hockley, the ISD is also subject to the requirements of Section 203 for Spanish. See 28 C.F.R. § 55.9. The Census coverage determination is final and non-reviewable. See 42 U.S.C. § 1973aa-1a(b)(4).

9. Because the ISD is subject to the requirements of Section 203, "any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots" that Defendants provide in English must also be furnished in Spanish. 42 U.S.C. § 1973aa-1a(c).

CAUSE OF ACTION

10. Defendants have failed to provide accurate Spanish translations of all election related materials produced in English.

11. Defendants' failure to provide accurate Spanish language election information constitutes a violation of Section 203.

12. Unless enjoined by this Court, Defendants will continue to violate Section 203 by failing to provide limited-English proficient citizens of the ISD accurate and reliable Spanish language election information necessary for their equal political participation.

PRAYER FOR RELIEF

WHEREFORE, the United States of America prays that this Court enter an order:

1. Declaring that Defendants have failed to provide accurate Spanish language election information necessary to those who require it in violation of Section 203 of the Voting Rights Act, 42 U.S.C. § 1973aa-1a; and,
2. Ordering Defendants to implement a procedure to ensure that limited-English proficient Spanish speaking citizens are able to participate in all phases of the electoral process as required by Section 203, 42 U.S.C. § 1973aa-1a, by producing accurate Spanish translations of election related materials.

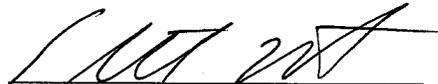
Plaintiff further prays that this Court order such additional relief as the interests of justice may require, together with the costs and disbursements in maintaining this action.

Dated: July 16, 2007.

ALBERTO R. GONZALEZ
Attorney General



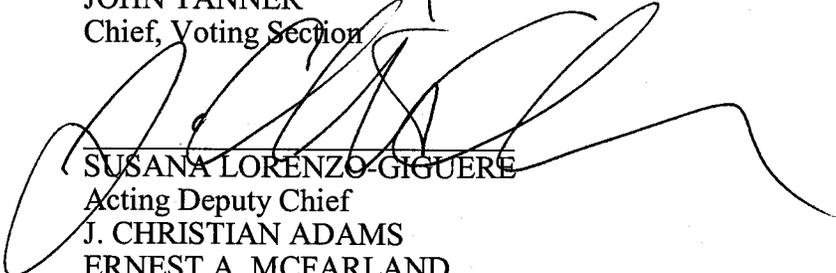
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JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

5-07CV0148-C

<p>I. (a) PLAINTIFFS UNITED STATES OF AMERICA</p> <p>(b) County of Residence of First Listed Plaintiff _____ (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorney's (Firm Name, Address, and Telephone Number) E. Scott Frost, Assistant U.S. Attorney 806.472.7566 1205 Texas Avenue, Ste. 700, Lubbock, TX 79401</p>	<p>DEFENDANTS SMYER INDEPENDENT SCHOOL DISTRICT; and JANE LEWIS, CHIEF ELECTION OFFICER, in her official capacity</p> <p>County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p> <p>Attorneys (If Known) Ann Manning, 1111 West Loop 289, Lubbock, TX 79416 Tel: 806.793.1711</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input checked="" type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <p>(For Diversity Cases Only)</p> <table style="width:100%;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:10%;"><input type="checkbox"/> 1</td> <td style="width:10%;"><input type="checkbox"/> 1</td> <td style="width:33%;">Incorporated or Principal Place of Business In This State</td> <td style="width:10%;"><input type="checkbox"/> 4</td> <td style="width:10%;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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IV. NATURE OF SUIT (Place an "X" in One Box Only)					
CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<p>PERSONAL INJURY</p> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <p>LABOR</p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input checked="" type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence <p>Habeas Corpus:</p> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) _____ 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

VI. CAUSE OF ACTION Brief description of cause: Violation of Sections 203 of the Voting Rights Act of 1965.

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ _____ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE SAM R. CUMMINGS DOCKET NUMBER _____

DATE July 16, 2007 SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____