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1/9/2025 3:46 PM

San Luis Obispo Superior Court

By: *Karen McCormick*
Karen McCormick , Deputy Clerk

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**EXEMPT FROM FILING FEES
[GOV'T CODE § 6103]**

15 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
16 IN AND FOR THE COUNTY OF SAN LUIS OBISPO

17 SOUTHWEST VOTER REGISTRATION)
18 EDUCATION PROJECT,)
19 *Plaintiff,*)
20 vs.)
21 CITY OF SAN LUIS OBISPO, CALIFORNIA;)
and DOES 1-100, inclusive,)
22 *Defendants.*)
23)
24)
25)
26)
27)
28)

Case No. 24CV-0797
**ANSWER OF DEFENDANT CITY
OF SAN LUIS OBISPO TO
UNVERIFIED COMPLAINT FOR
VIOLATION OF THE CALIFORNIA
VOTING RIGHTS ACT OF 2001**
JUDGE: Hon. Tana L. Coates
DEPARTMENT: 4
ACTION FILED: December 31, 2024

1 Defendant CITY OF SAN LUIS OBISPO (hereinafter “Defendant”) answers the unverified
2 complaint of plaintiff SOUTHWEST VOTER REGISTRATION EDUCATION PROJECT as
3 hereinafter set forth.

4 **I. GENERAL DENIAL**

5 1. Pursuant to Section 431.30(d) of the California Code of Civil Procedure, Defendant
6 generally and specifically denies each and every allegation, statement, matter, and thing set forth
7 and alleged in the unverified complaint, and specifically denies that Defendant has violated the
8 California Voting Rights Act of 2001 (California Elections Code § 14025 *et seq.*, hereinafter the
9 “Act”) and denies that Plaintiff is entitled to the relief prayed for or any relief whatsoever against
10 Defendant.

11 **II. AFFIRMATIVE DEFENSES**

12 2. For Defendant’s separate and additional affirmative defenses to the cause of action
13 alleged in the unverified complaint, and without admitting that Defendant has the burden of proof
14 on any of these defenses, Defendant alleges as follows:

15 **FIRST AFFIRMATIVE DEFENSE**

16 (Failure to State a Cause of Action, Elec. Code § 14027)

17 3. The cause of action contained in the Complaint fails to allege facts demonstrating
18 dilution of the ability of Latino voters to elect chosen candidates or influence the outcome of
19 elections.

20 **SECOND AFFIRMATIVE DEFENSE**

21 (Failure to State a Cause of Action, Elec. Code § 14028)

22 4. The cause of action contained in the Complaint fails to allege facts demonstrating
23 racially polarized voting sufficient to state a cause of action against Defendant.

24 **THIRD AFFIRMATIVE DEFENSE**

25 (Failure to State a Cause of Action, Elec. Code § 14028)

26 5. The cause of action contained in the Complaint fails to allege facts demonstrating
27 Latino-preferred candidates, including candidates who are themselves Latino, fail to win election to
28 the City Council.

1 FOURTH AFFIRMATIVE DEFENSE

2 (As-applied Violation of the Fourteenth Amendment to the United States Constitution and
3 Article I, § 7, of the California Constitution)

4 6. The Act is unconstitutional as applied to Defendant pursuant to the provisions of Section 1
5 of the Fourteenth Amendment to the United States Constitution, and to the provisions of Section 7
6 of Article I of the California Constitution.

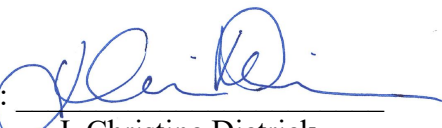
7 PRAYER

8 WHEREFORE, Defendant prays for judgment that:

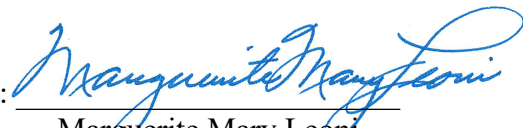
- 9 1. For entry of Judgment against Plaintiff and in favor of Defendant; and
10 2. Plaintiff takes nothing by its Complaint; and
11 3. Defendant be awarded its costs of suit and attorneys' fees; and
12 4. The Court order such further relief to Defendant as deemed just and proper.

13 Dated: January 9, 2025

CITY OF SAN LUIS OBISPO

14
15 By: 
16 J. Christine Dietrick
17 City Attorney

18 NIELSEN MERKSAMER
19 PARRINELLO GROSS & LEONI LLP

20 By: 
21 Marguerite Mary Leoni
22 Christopher E. Skinnell

23 *Attorneys for Defendant*
24 City of San Luis Obispo

PROOF OF SERVICE

STATE OF CALIFORNIA; COUNTY OF SAN LUIS OBISPO


I am employed in the County of San Luis Obispo, State of California. I am over the age of 18, and not a party to the within action. My business address is 990 Palm Street, San Luis Obispo, California 93401.

On January 9, 2025, I caused the foregoing document described as **ANSWER OF DEFENDANT CITY OF SAN LUIS OBISPO TO UNVERIFIED COMPLAINT FOR VIOLATION OF THE CALIFORNIA VOTING RIGHTS ACT OF 2001** to be served as follows on the interested parties in this action:

Kevin Shenkman
Shenkman & Hughes PC
28905 Wight Road
Malibu, CA 90265
email: kishenkman@shenkmanhughes.com

[X] **By Electronic Service (email):** Based on an agreement of the parties to accept electronic service, I caused the documents to be sent to the persons at the electronic service address(es) as indicated above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on January 9, 2025, at San Luis Obispo, California.



Kelly Holcomb

PROOF OF SERVICE