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County of Los Angeles

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Sherri R. Carter, Executive Officer/Clerk
By Shaunya Bolden, Deputy

1 Morris J. Baller, Of Counsel (SBN 048928)
mballer@gbdhlegal.com
2 Laura L. Ho (SBN 173179)
lho@gbdhlegal.com
3 GOLDSTEIN, BORGEN, DARDARIAN & HO
300 Lakeside Drive, Suite 1000
4 Oakland, CA 94612
Tel: (510) 763-9800
5 Fax: (510) 835-1417

6 Denise Hulett (SBN 121553)
dhulett@maldef.org
7 Matthew Barragan (SBN 283883)
mbarragan@maldef.org
8 MEXICAN AMERICAN LEGAL DEFENSE
AND EDUCATIONAL FUND
9 634 S. Spring Street
Los Angeles, CA 90014
10 Tel: (213) 629-2512
Fax: (213) 629-0266

11 Robert Rubin (SBN 085084)
12 robertrubinsf@gmail.com
Law Office of Robert Rubin
13 315 Montgomery Street, 10th Floor
San Francisco, CA 94104
14 Tel: (415) 434-5118

15 Attorneys for Plaintiffs

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA

17 FOR THE COUNTY OF LOS ANGELES

18
19 Luis Melliz, Bertha Valenzuela, and Gloria
Willingham-Toure,

20 Plaintiffs,

21 vs.

22 CITY OF BELLFLOWER,

23 Defendant.
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Case No.:

BC 5 51 5 5 5
**COMPLAINT FOR VIOLATION OF THE
CALIFORNIA VOTING RIGHTS ACT**

[Elections Code sections 14025-14032]

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1 Plaintiffs Luis Melliz, Bertha Valenzuela, and Gloria Willingham-Toure (“Plaintiffs”)
2 complain and allege as follows:

3 **NATURE OF THE CASE**

4 1. This action is brought by Plaintiffs for declaratory and injunctive relief against the City
5 of Bellflower, located in Los Angeles County, California, for its violation of the California Voting
6 Rights Act of 2001 (hereinafter the “CVRA”), Cal. Elec. Code § 14025 *et seq.* Bellflower’s at-large
7 method of election of its City Council has resulted in vote dilution for racial/ethnic minority residents
8 and has denied them effective political participation in elections to the Board. Bellflower’s at-large
9 method of election for electing members to its City Council prevents racial/ethnic minority residents
10 from electing candidates of their choice or influencing the outcome of Board elections.

11 2. The effects of Bellflower’s at-large method of election are apparent and compelling.
12 Latinos comprise approximately 52% of the overall population, and approximately 37% of the citizen
13 voting age population (“CVAP”) in Bellflower. African Americans comprise an additional 14% of the
14 CVAP population in Bellflower. Despite that large majority of eligible voters who are Latinos and
15 African Americans, there are no Latino or African American members of the City Council at present,
16 and there have been none for over a decade. Moreover, during that period, and previously, Latino and
17 African American voters of Bellflower lacked the ability to elect candidates of their choice to the City
18 Council. In the last election (March 2013), two Latino candidates and one African American candidate
19 ran for City Council and all lost to candidates not preferred by the minority electorate. Latino
20 candidates also ran in several other elections since 2000, but none won seats. The historical and
21 current absence of any minority members of Bellflower’s City Council reveals a lack of access for
22 minority voters to the political process.

23 3. Bellflower’s at-large method of election violates the CVRA.

24 4. Plaintiffs bring this action to enjoin Bellflower’s continued abridgment of racial
25 minorities’ voting rights. Plaintiffs seek a declaration from this Court that the at-large method of
26 election currently used by Bellflower violates the CVRA. Plaintiffs seek injunctive relief enjoining
27 Bellflower from further imposing or applying its current at-large method of election. Further,
28

1 Plaintiffs seek injunctive relief requiring Bellflower to design and implement district-based elections or
2 other alternative relief tailored to remedy Bellflower's violation of the CVRA.

3 PARTIES

4 5. Plaintiffs Melliz and Valenzuela are registered voters residing in the City of Bellflower,
5 are Latino, and are eligible to vote, and have voted, in the Bellflower City Council elections. Plaintiff
6 Willingham-Toure is a registered voter residing in the City of Bellflower, is African-American and is
7 eligible to vote, and has voted, in the Bellflower City Council elections. All of the Plaintiffs are
8 members of a protected class under the CVRA. (Cal. Elec. Code § 14026).

9 6. Defendant Bellflower is a general law city and a political subdivision within the State of
10 California, governed by an elected City Council, and is subject to the CVRA.

11 JURISDICTION

12 7. This Court has jurisdiction over Plaintiffs' claims for declaratory and injunctive relief
13 under the CVRA. Cal. Elec. Code § 14032.

14 VENUE

15 8. Venue as to Defendant is proper in the County of Los Angeles. Defendant City is
16 situated in the County of Los Angeles, where Plaintiffs reside and where violations of the CVRA have
17 and, unless enjoined, will continue to occur. Cal. Civil Proc. Code § 395(a).

18 FACTS

19 9. The City of Bellflower is located in the southeastern part of Los Angeles County.

20 10. The population of Bellflower is 77,593 according to the 2013 Census data. The
21 majority of the residents of Bellflower are Hispanic/Latino, and the Latino citizen voting age
22 population ("CVAP") is approximately 37% of the total CVAP of Bellflower. In addition, 14% of the
23 CVAP population of Bellflower are African-Americans.

24 11. Bellflower is governed by a five member City Council, including the Mayor.

25 12. Although Latinos form a numerical majority of Bellflower's overall population and
26 over one-third of its citizens of voting age who are eligible to vote in elections, and although an
27 additional significant portion of the City's citizens of voting age are African Americans, there are no
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1 Latino or African American members of the City Council at present, and have been none for over a
2 decade.

3 13. Members of the Bellflower City Council are elected pursuant to an at-large method of
4 election. Under this method of election, all of the eligible voters of the entire city elect members to the
5 City Council. Candidates are not required to reside in any particular portion or zone of the city. In
6 turn, any eligible voter may vote for any candidate, regardless of where the voter resides.

7 14. City Council elections are held every other year, in March of odd-numbered years. The
8 terms are staggered such that one-half of the members (i.e., two or three) are elected in each odd-
9 numbered year. The terms are normally for four years.

10 15. Voter turnout in Bellflower's City Council elections, and especially the participation of
11 voters who are members of a protected group as defined by the CVRA, has generally been low, in
12 large part because of the timing of those elections and because the inability of racial minority voters to
13 elect candidates of their choice for City Council discourages them from voting in local elections. The
14 participation of racial minority voters, and their ability to elect candidates of their choice to the City
15 Council, would be enhanced, and the degree of dilution of minority voting strength reduced, by
16 holding the City Council elections under a by-district system in conjunction with general elections in
17 November of even-numbered years.

18 16. Elections conducted within Bellflower are characterized by racially polarized voting.
19 Racially polarized voting occurs when members of a protected class as defined by the CVRA, Cal.
20 Elec. Code § 14026(d), vote for candidates and electoral choices that are different from the rest of the
21 electorate. Racially polarized voting exists within Bellflower because there is a difference between the
22 choices of candidates or other electoral choices that are preferred by minority voters and the choices of
23 candidates or other electoral choices that are preferred by voters in the rest of the electorate.

24 17. Racially polarized voting consists both of voter cohesion on the part of Latino and
25 minority voters and of bloc voting by the non-Latino and non-minority electorate against the choices of
26 Latino and minority voters. Such polarized voting is legally significant in the Bellflower City Council
27 elections because it dilutes the opportunity of minority voters to elect candidates of their choice.
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1 18. Patterns of racially polarized voting impede opportunities for Latino and minority
2 voters to elect candidates of their choice to the at-large City Council positions, where the non-minority
3 voting majority dominates elections. Racially polarized voting patterns dilute Latino and African
4 American voting strength in Bellflower City Council elections. In addition, racially polarized voting
5 by Bellflower voters has occurred in elections for county and statewide elective offices, in which there
6 were one or more minority candidates, further demonstrating the existence of racially polarized voting
7 patterns among the Bellflower electorate.

8 19. In recent City Council elections in which there have been Latino and African American
9 candidates, non-minority candidates and their supporters have resorted to discriminatory and racially
10 polarizing campaign tactics, including overt or subtle racial appeals, which have made it even more
11 difficult for the minority candidates to obtain "crossover" non-minority voters' votes, which are
12 necessary to win election under the at-large election system. In addition, there have been incidents of
13 official discrimination against both Latinos and African-Americans in matters other than elections and
14 voting, which have exacerbated the racial polarization in voting patterns and which further handicap
15 minority candidates in City Council elections.

16 20. The at-large method of election and repeated racially polarized voting has caused
17 minority vote dilution within the Bellflower. Where minority voters and the rest of the electorate
18 express different preferences on candidates and other electoral choices, non-minority voters, by virtue
19 of their overall numerical majority among eligible voters, defeat the preferences of minority voters.

20 21. The obstacles posed by Bellflower's at-large method of election, together with racially
21 polarized voting, impair the ability of racial minority voters to elect candidates of their choice or to
22 influence the outcome of elections for the City Council as conducted in the Bellflower.

23 22. An alternative lawful method of election, specifically, district-based elections, would
24 provide an opportunity for the members of the protected class as defined by the CVRA to elect
25 candidates of their choice and/or to influence the outcome of the Bellflower City Council elections.

26 23. The City of Bellflower has been on notice for years about its violations of the CVRA.
27 On March 26, 2009, one of Plaintiffs' present counsel sent the city a letter pointing out its violations of
28 the CVRA. At about the same time, several citizens of Bellflower sent the city a similar letter

1 requesting a change of its at-large system. Bellflower did not change its at-large system. On May 30,
2 2013, Plaintiffs' counsel sent another letter to Bellflower demanding a change in the at-large system.
3 A copy of that letter is attached as Exhibit A to this Complaint.

4 24. Since the second letter sent by Plaintiffs' counsel to the City in May 2013, numerous
5 citizens and voters of Bellflower, and several public officials, have communicated to the City Council
6 their belief that the at-large election system used to elect the City Council discriminates against
7 minority voters and violates the CVRA, and have petitioned for a change to a by-district election
8 system. The City has rejected the demand made in the two letters from Plaintiffs' counsel and has
9 ignored the requests of Plaintiffs and others to change its election system.

10 25. Following the public rejection of Plaintiffs' and others' advocacy efforts directed at
11 obtaining a voluntary change in the election system, Plaintiffs have determined that only litigation can
12 bring about compliance with the CVRA by Bellflower. Unless enjoined from proceeding with at-large
13 elections to the City Council, Defendant will conduct its future elections under the unlawful at-large
14 election system.

15 **FIRST CAUSE OF ACTION**
16 **(Violation of California Voting Rights Act of 2001,**
Cal. Elec. Code § 14025 *et seq.*)

17 26. Plaintiffs refer to and incorporate the foregoing paragraphs as though fully set forth
18 herein.

19 27. Defendant's use of an at-large system of elections for the election of its City Council
20 violates the California Voting Rights Act. Cal. Elec. Code §§ 14027-14028.

21 28. The Court is authorized to provide appropriate remedies, including the imposition of a
22 by-district election system and a requirement that elections coincide with a general election, for
23 Defendant's violation of the California Voting Rights Act. Cal. Elec. Code § 14029.

24 29. An actual controversy has arisen and now exists between the parties relating to the legal
25 rights and duties of all Plaintiffs and the Defendant, for which Plaintiffs desire a declaration of rights.

26 30. Defendant's wrongful conduct has caused and, unless enjoined by this Court, will
27 continue to cause immediate and irreparable injury to Plaintiffs. In particular, unless enjoined by this
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1 Court, Defendant will hold elections for City Council in March 2015 using an unlawful at-large
2 election system.

3 31. Plaintiffs have no adequate remedy at law for the injuries they currently suffer and will
4 otherwise continue to suffer.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiffs ask this Court to:

7 1. Find and declare that the Bellflower's current at-large method of election for the City
8 Council violates the CVRA, and that adoption of an election system using single member districts is
9 required by the CVRA;

10 2. Grant preliminary and permanent injunctive relief against Bellflower from imposing or
11 applying its current at-large method of election;

12 3. Grant injunctive relief mandating Bellflower to design and implement district-based
13 elections, as defined by the CVRA (Cal. Elec. Code § 14026), utilizing fair and non-discriminatory
14 district lines.

15 4. Find and declare that Bellflower's holding of elections in March of odd-numbered years
16 enhances the dilution of minority voting rights and that holding of elections at the time of general
17 elections is an appropriate remedy for Bellflower's CVRA violations;

18 5. Grant injunctive relief requiring Bellflower to conduct its City Council elections in
19 November of even-numbered years;

20 6. Grant Plaintiffs attorneys' fees and costs of litigation pursuant to the CVRA, California
21 Elections Code § 14030, California Code of Civil Procedure § 1021.5 and/or other applicable law; and,


22 7. Grant Plaintiffs such further relief tailored to remedy Bellflower's violation of the
23 CVRA as the Court deems just and proper.
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1 Dated: July 14th 2014

Respectfully submitted,

2 MEXICAN AMERICAN LEGAL DEFENSE AND
3 EDUCATION FUND, INC.
ROBERT RUBIN

4 GOLDSTEIN, BORGEN, DARDARIAN & HO

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6 _____
Morris J. Baller, Of Counsel

7 Attorneys for Plaintiffs

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Exhibit A

Shareholders
David Borgen
Linda M. Gardarian
Laura L. Ho



Goldstein, Borgen,
Dardarian & Ho

Of Counsel
Barry Goldstein
Morris J. Baller
Roberta L. Steele

May 30, 2013

Via FedEx - Overnight

Ray Dunton, Mayor
City of Bellflower
City Hall
16600 Civic Center Drive
Bellflower, CA 90706

Re: Demand for Compliance with California Voting Rights Act

Dear Mr. Dunton:

We have received complaints from Latino citizens and voters of the City of Bellflower, as well as other members of your community, that the use of an at-large election system for the election of candidates to the City Council results in minority vote dilution and prevents minority voters from electing candidates of their choice or influencing the results of elections. Upon those complaints, we have investigated demographic and electoral information for your jurisdiction with particular attention to the prohibitions of the California Voting Rights Act ("CVRA") of 2001. Based on that investigation, we believe that Bellflower's at-large election system violates the CVRA and must be changed to a district election system.

The CVRA, which is a part of the California Elections Code, states in relevant part:

§ 14027. [A]n at-large method of election may not be imposed or applied in a manner that impairs the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of an election, as a result of the dilution or abridgement of the rights and privileges of members of a protected class.

Latino residents of Bellflower are of course such a "protected class," and we believe that the at-large election system does result in dilution of their voting rights. Our analysis of population data from census figures shows that 50% of the population of the city is Latino. Of the citizen voting age population, 38% is Latino. However, none of the five current members of the City Council is Latino. In the last election (March 2013), two Latino candidates ran for City Council and both lost to candidates not preferred by the Latino electorate. There has been no Latino City Council member elected going back several election cycles. Based on our review of election returns and demographic information, we believe that the lack of success of Latinos in gaining election and of Latino voters in selecting candidates of their choice results from racially polarized voting by the Bellflower electorate.

The CVRA defines racially polarized voting as "voting in which there is a difference ... in the choice of candidates or other electoral choices that are preferred by voters in a protected class, and in the choice of candidates and electoral choices that are preferred by voters in the rest

of the electorate.” Elections Code § 14026(e). The CVRA further specifies that racially polarized voting is determined by examining the results of elections in which “one candidate is a member of a protected class or elections involving ballot measures, or other electoral choices that affect the rights and privileges of a protected class.” *Id.* § 14208(a)-(b). We have followed that method in concluding that racially polarized voting exists in Bellflower. Demonstration of minority vote dilution due to racially polarized voting under an at-large election system is sufficient to prove a violation of the CVRA.

There cannot be any doubt that the CVRA imposes constraints on the City in its choice of election system, in light of the facts summarized above. The constitutionality of the CVRA has been upheld by the California Court of Appeal in a case brought by one of the undersigned attorneys, and both the California Supreme Court and the United States Supreme Court refused to disturb that decision. *Sanchez v. City of Modesto*, 145 Cal. App. 4th 660 (2006), *review denied*, 2007 Cal. LEXIS 2772 (Cal. March 21, 2007) (No. S149500), *cert. denied* 552 U.S. 974 (2007). A number of jurisdictions, including the Downey School District, Merced Union High School District, Merced City School District, Visalia Unified School District, Fresno Unified School District, and State Center Community College District, have recently abandoned at-large systems and adopted district election plans when they were required to review their election systems in light of demands similar to this one. Other jurisdictions, including the County of San Mateo, City of Modesto, City of Compton, City of Escondido, Madera Unified School District, Hanford Joint Union High School District, and Cerritos Community College District agreed to convert to district election systems after they were sued by Latino citizens represented by one of the undersigned or their colleagues.

In light of the lack of Latino representation and the inability of Latino voters to select candidates of their choice and to influence the outcome of elections, in violation of the California Voting Rights Act, and in the context of racially polarized voting as occurs in Bellflower elections, we demand that the City change from at-large to district elections.

This is not the first time the City has been on notice of its CVRA violations. On March 26, 2009, while at the Lawyers Committee for Civil Rights, Robert Rubin, who is one of the signatories of this letter, sent the City a letter pointing out its violations of the CVRA. At about the same time, several citizens of Bellflower sent the City a similar demand letter requesting the same change. Given this repeated notification to the City of the need to change its election system in order to comply with the CVRA, without any substantive changes having been made by the City, we request your response to this demand by June 29, 2013. In the absence of a satisfactory response, we and our clients will be forced to consider seeking judicial relief in the form of an action to obtain an order changing the election system from at-large to district, together with other relief provided for in the CVRA, including awards of litigation and expert witness costs, and attorneys’ fees, as have been made by courts or agreed to by defendant jurisdictions in the Modesto, Madera, San Mateo, Compton, Escondido, Cerritos Community College, and other cases listed above.


Ray Dunton, Mayor

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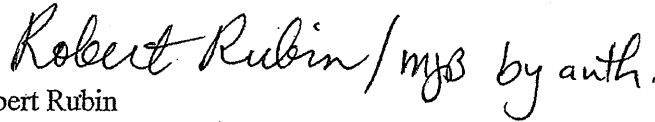
May 30, 2013

We would be pleased to discuss the subject of this letter with you should you believe such discussion would be productive.

Sincerely yours,



Morris J. Baller
Goldstein, Borgen, Dardarian & Ho



Robert Rubin
The Law Offices of Robert Rubin

MJB/jvd