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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF SAN LUIS OBISPO**

12 **SOUTHWEST VOTER**
13 **REGISTRATION EDUCATION**
14 **PROJECT;**

15 Plaintiff,

16 v.

17 **CITY OF SAN LUIS OBISPO,**
18 **CALIFORNIA; and DOES 1-100,**
19 **inclusive,**

20 Defendants.

21 **Case No.:**

22 **COMPLAINT FOR VIOLATION OF THE**
23 **CALIFORNIA VOTING RIGHTS ACT OF**
24 **2001**

25 **COMES NOW** Plaintiff Southwest Voter Registration Education Project (hereinafter
26 "SVREP" or "Plaintiff"), and allege as follows:

27 **GENERAL ALLEGATIONS**

28 1. This action is brought by Plaintiff for injunctive and declaratory relief against the City of San Luis Obispo, California, for its violation of the California Voting Rights Act of 2001 (hereinafter the "CVRA"), Cal. Elec. Code §§ 14025, et seq. Plaintiff alleges that the City of San Luis Obispo's implementation of at-large elections, in which all city voters may cast as many votes as there are open seats up for election on the City Council and an additional vote for the separately elected Mayor, has resulted in vote dilution for Latino residents and has denied them effective political participation in elections to the San Luis Obispo City Council. Specifically, Plaintiffs allege that the City of San Luis Obispo' at-large

1 method of election for electing members to its City Council prevents Latino residents from
2 electing candidates of their choice or influencing the outcome of San Luis Obispo’s City
3 Council elections.

4 2. Plaintiff alleges that, despite a Latino population of approximately 19% in the
5 City of San Luis Obispo, according to the 2020 Census, the candidates preferred by Latino
6 voters lose in elections within San Luis Obispo and this consistent pattern reveals a lack of
7 access to the political process.

8 3. Plaintiff brings this action to enjoin the City of San Luis Obispo’s continued
9 abridgment of its residents’ voting rights. Plaintiff seeks a declaration from this Court that
10 the City of San Luis Obispo’s at-large elections, for its city council, violates the CVRA.
11 Plaintiff seeks injunctive relief enjoining the City of San Luis Obispo from further imposing
12 or applying an at-large method of election. Plaintiffs do not allege at this time, and are not
13 required to prove, the City of San Luis Obispo intended to discriminate through the use of its
14 at-large method of election. Further, Plaintiff seeks injunctive relief requiring the City of San
15 Luis Obispo to implement district-based elections, or other alternative relief, as discussed in
16 *Pico Neighborhood Ass'n v. City of Santa Monica* (2023) 15 Cal. 5th 292.

17 4. Through correspondence to the City of San Luis Obispo sent in February 2023
18 via certified mail pursuant to section 10010 of the Elections Code, Plaintiff, through the
19 undersigned counsel, asserted that the City’s method of conducting elections may violate the
20 California Voting Rights Act of 2001.

21 **PARTIES**

22 5. SVREP, founded in 1974, is the largest and oldest non-partisan Latino voter
23 participation organization in the United States. SVREP was founded to ensure the voting
24 rights of minorities in the Southwest United States, and continues that mission today, now
25 operating in various states, including California. Over the course of the last few decades,
26 SVREP has been at the forefront of major social and political gains for Latinos in the U.S.
27 and throughout Latin America. While its primary mission is voter registration and education,
28 SVREP is also involved in ensuring fair elections, community organizing, and education,

1 accountability and training of community leaders and elected officials. In California, SVREP
2 has been in the forefront of efforts to enforce the California Voting Rights Act.

3 6. At all times herein mentioned, Defendant City of San Luis Obispo, California
4 (hereinafter "San Luis Obispo") is and has been a charter city subject to the provisions of the
5 CVRA.

6 7. Plaintiff is unaware of the true names and capacities, whether individual,
7 corporate, associate, or otherwise, of defendants sued herein as Does 1 through 100,
8 inclusive, and therefore, sue said defendants by such fictitious names and will ask leave of
9 court to amend this complaint to show their true names and capacities when the same have
10 been ascertained. Plaintiff is informed and believes and thereon alleges that defendants Does
11 1 through 100, inclusive, are responsible on the facts and theories herein alleged.

12 8. Does 1 through 100, inclusive, are Defendants that have caused San Luis
13 Obispo to violate the CVRA, failed to prevent San Luis Obispo' violation of the CVRA, or
14 are otherwise responsible for the acts and omissions alleged herein.

15 9. Plaintiff is informed and believes and thereon alleges that Defendants and each
16 of them are in some manner legally responsible for the acts and omissions alleged herein, and
17 actually and proximately caused and contributed to the various injuries and damages referred
18 to herein.

19 10. Plaintiff is informed and believes and thereon alleges that at all times herein
20 mentioned each of the Defendants were the agent, partner, predecessor in interest, successor
21 in interest, and/or employee of one or more of the other Defendants, and were at all times
22 herein mentioned acting within the course and scope of such agency and/or employment.

23 **JURIDICTION AND VENUE**

24 11. All parties hereto are within the unlimited jurisdiction of this Court. The
25 unlawful acts complained of occurred in San Luis Obispo County. Venue in this Court is
26 proper.

27 **FACTUAL ALLEGATIONS**

1 12. The City of San Luis Obispo contains approximately 47,400 persons, of which
2 approximately 19% are Latino, based upon the 2020 United States Census.

3 13. The City of San Luis Obispo is governed by a city council of five members –
4 four members who serve four-year terms and a directly elected mayor who serves a two-year
5 term. The San Luis Obispo City Council serves as the governmental body responsible for the
6 policy and budgetary direction, and appointment and oversight of the City Manager
7 responsible for operations, of the City of San Luis Obispo.

8 14. The San Luis Obispo City Council members are elected pursuant to an “at-large
9 method of election,” as that term is defined by Section 14026 of the Election Code.

10 15. Vacancies to the City Council are elected on a staggered basis; as a result, every
11 two years the city electorate elects two council members as well as the mayor.

12 16. Elections conducted within the City of San Luis Obispo are characterized by
13 racially polarized voting. Racially polarized voting occurs when members of a protected
14 class as defined by the CVRA, Cal. Elec. Coed § 14025(d), vote for candidates and electoral
15 choices that are different from the rest of the electorate. Racially polarized voting exists
16 within the City of San Luis Obispo because there is a difference between the choice of
17 candidates or other electoral choices that are preferred by Latino voters and the choice of
18 candidates or other electoral choices that are preferred by voters in the rest of the electorate,
19 with the result being that Latino-preferred candidates usually lose.

20 17. Racially polarized voting is legally significant in San Luis Obispo City Council
21 elections because it dilutes the opportunity of Latino voters to elect candidates of their choice
22 or influence the outcome of those elections.

23 18. Patterns of racially polarized voting have the effect of impeding opportunities
24 for Latino voters to elect candidates of their choice to the at-large city council positions in the
25 City of San Luis Obispo or influence the outcome of those elections, where the non-Latino
26 electorate dominates elections. For several years, Latino voters have been harmed by racially
27 polarized voting.

28

1 19. The at-large multiple-vote method of election and repeated racially polarized
2 voting has caused Latino vote dilution within the City of San Luis Obispo. Where Latinos
3 and the rest of the electorate express different preferences on candidates and other electoral
4 choices, non-Latinos by virtue of their overall numerical majority among voters, defeat the
5 preferences of Latino voters.

6 20. The obstacles posed by at-large multiple-vote elections in the City of San Luis
7 Obispo, together with racially polarized voting, impair the ability of people of certain races,
8 color or language minority groups, such as Latino voters, to elect candidates of their choice or
9 to influence the outcome of elections conducted in the City of San Luis Obispo.

10 21. An alternative method of election, such as district-based elections, or an
11 alternative method of election as discussed in *Pico Neighborhood Ass'n v. City of Santa*
12 *Monica* (2023) 15 Cal.5th 292, exists that will provide an opportunity for the members of the
13 protected classes as defined by the CVRA to elect candidates of their choice or to influence
14 the outcome of the San Luis Obispo City Council elections.

FIRST CAUSE OF ACTION

(Violation of California Voting Rights Act of 2001)

(Against All Defendants)

18 22. Plaintiff incorporates by this reference paragraphs 1 through 26 as though fully
19 set forth herein.

20 23. Defendant City of San Luis Obispo is a political subdivision within the State of
21 California.

22 24. Defendant City of San Luis Obispo has employed an at-large method of
23 election, where voters of its entire jurisdiction elect all members to its City Council.

24 25. Racially polarized voting has occurred, and continues to occur, in elections for
25 members of the City Council for the City of San Luis Obispo and/or in elections
26 incorporating other electoral choices by voters of the City of San Luis Obispo, California.
27 Absent remedial measures ordered by this Court, racially polarized voting will continue to
28 plague elections held in San Luis Obispo. As a result, the City of San Luis Obispo’ at-large

1 method of election is imposed in a manner that impairs the ability of protected classes as
2 defined by the CVRA to elect candidates of their choice or influence the outcome of
3 elections.

4 26. An alternative method of election, such as district-based elections, or an
5 alternative method of election as discussed in *Pico Neighborhood Ass'n v. City of Santa*
6 *Monica* exists that will provide an opportunity for the members of a protected class as defined
7 by the CVRA to elect candidates of their choice or to influence the outcome of the San Luis
8 Obispo City Council elections.

9 27. An actual controversy has arisen and now exists between the parties relating to
10 the legal rights and duties of Plaintiff and Defendants, for which Plaintiff desires a
11 declaration of rights.

12 28. Defendants' wrongful conduct has caused and, unless enjoined by this Court,
13 will continue to cause, immediate and irreparable injury to Plaintiff, and all residents of the
14 City of San Luis Obispo.

15 29. Plaintiff and the residents of the City of San Luis Obispo have no adequate
16 remedy at law for the injuries they currently suffer and will otherwise continue to suffer.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as
19 follows:

20 1. For a decree that the City of San Luis Obispo's at-large method of election for
21 all or any portion of the City Council violates the California Voting Rights Act of 2001;

22 2. For preliminary and permanent injunctive relief enjoining the City of San Luis
23 Obispo from imposing or applying an at-large method of election;

24 3. For injunctive relief mandating the City of San Luis Obispo to implement
25 district-based elections, as defined by the California Voting Rights Act of 2001, employing a
26 district map tailored to remedy Defendant's violation of the California Voting Rights Act of
27 2001, or other election system tailored to eliminate the vote dilution of the City of San Luis
28 Obispo's at-large multiple-vote elections;

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4. For injunctive relief mandating the prompt election of city council members through district-based elections, or another election method tailored to remedy Defendant’s violation of the California Voting Rights Act of 2001,

5. Other relief tailored to remedy the City of San Luis Obispo’s violation of the California Voting Rights Act of 2001;

6. For an award of Plaintiff attorneys’ fees, costs, litigation expenses and prejudgment interest pursuant to Elec. Code § 14030 and other applicable law; and

7. For such further relief as the Court deems just and proper.

Respectfully submitted:

DATED: _____, 2024

SHENKMAN & HUGHES PC

By: /s/Kevin Shenkman

Kevin Shenkman
Attorneys for Plaintiff