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Giovanni Campos, Oscar Gomez, Mateo Saldivar,
8 Samuel Saldivar, and State Building
and Construction Trades Council of California
9

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SAN DIEGO
12 NORTH COUNTY REGIONAL CENTER

13 DEMETRIO GOMEZ, GIOVANNI CAMPOS,)
14 OSCAR GOMEZ, MATEO SALDIVAR,)
15 SAMUEL SALDIVAR, and STATE BUILDING)
AND CONSTRUCTION TRADES COUNCIL)
OF CALIFORNIA,)

16 Plaintiffs,)
17)

18 v.)

19)
20 CITY OF ESCONDIDO; ESCONDIDO CITY)
COUNCIL; SAM ABED, in his official)
capacity as Mayor of the City of Escondido;)
21 MARIE WALDRON, in her official capacity as)
Deputy Mayor of the City of Escondido; and)
22 MARSHA WHALEN, in her official capacity as)
City Clerk for the City of Escondido,)

23 Defendants.)
24)

Case No.

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF UNDER
THE CALIFORNIA VOTING RIGHTS
ACT OF 2001 AND THE FEDERAL
VOTING RIGHTS ACT OF 1965**

Unlimited Civil Case

1 Plaintiffs Demetrio Gomez, Giovanni Campos, Oscar Gomez, Mateo Saldivar, Samuel
2 Saldivar, and State Building and Construction Trades Council of California allege as follows:

3 **INTRODUCTION**

4 1. This action challenges the City of Escondido’s use of a discriminatory at-large
5 voting system to elect the members of the Escondido City Council. Due to racially polarized
6 voting in the city, Escondido’s at-large method of electing City Council members dilutes the
7 voting strength of Escondido’s Latino residents and thereby impairs their ability to participate in
8 the political process, to elect candidates of their choice, and to influence the outcome of
9 elections. The at-large system results in a denial or abridgement of their right to vote on account
10 of their race or color, in violation of both the California Voting Rights Act of 2001 and the
11 federal Voting Rights Act of 1965, as amended.

12 2. The consequences Escondido’s discriminatory at-large voting system for its
13 Latino residents are clear. Although Escondido’s population is nearly 50% Latino, only one
14 openly Latino individual has been elected to the City Council in its 123-year history. No member
15 of Escondido’s City Council resides in Escondido’s central, largely Latino core. Escondido’s
16 Latino residents suffer the ongoing consequences of past and present discrimination and fare
17 worse than white, non-Latino residents on numerous measures of socioeconomic status. For
18 example, Latino residents are twice as likely as white residents to receive food stamps, and 50%
19 more likely to live in poverty. Likewise, Escondido’s Latino residents are far less likely than
20 white residents to have completed high school or earned a college degree, and are far less likely
21 to have health insurance. Rather than addressing the Latino community’s problems and concerns
22 through meaningful interventions or cooperative initiatives, the City Council elected through
23 Escondido’s existing at-large system has aggressively pursued policies that have divided the
24 community along racial and ethnic lines and given Escondido a national reputation as vigorously
25 anti-Latino.

26 3. Plaintiffs bring this action to end this ongoing infringement of the voting rights of
27 Escondido’s Latino residents, and to require Escondido to implement a district-based method of
28 electing City Council members that would permit Escondido’s Latino voters to elect the

1 candidates of their choice, influence the outcome of City Council elections, and participate
2 meaningfully in the democratic process. Defendants have been informed of Escondido’s ongoing
3 violations of state and federal law and of their legal duty to replace Escondido’s existing at-large
4 system with a district-based system, but have refused to do so.

5 4. Plaintiffs seek a declaration that Escondido’s current method of electing City
6 Council members violates the California Voting Rights Act of 2001 and the federal Voting
7 Rights Act of 1965, as amended, and an order prohibiting the continued use of that illegal
8 system. Plaintiffs also seek an order requiring Defendants to design and implement a new,
9 district-based system of City Council elections that would remedy Defendants’ prior violations of
10 state and federal voting rights laws and provide Escondido’s Latino residents with an opportunity
11 to elect candidates of their choosing and to influence the outcome of City Council elections.

12 **PARTIES**

13 5. Plaintiff Demetrio Gomez is a resident of the City of Escondido. He is over the
14 age of 18 and eligible and registered to vote in elections for the Escondido City Council. Mr.
15 Gomez is active in city politics, votes in city elections, attends City Council meetings, and
16 engages in other forms of civic and political engagement in the City of Escondido, including
17 working to elect fellow Latinos to the Escondido City Council. Mr. Gomez is Latino, and he is a
18 member of a class of voters that constitutes a protected class for purposes of the federal Voting
19 Rights Act of 1965, as amended, and the California Voting Rights Act of 2001.

20 6. Plaintiff Giovanni Campos is a resident of the City of Escondido. He is over the
21 age of 18 and eligible and registered to vote in elections for the Escondido City Council. Mr.
22 Campos votes in city elections, including Escondido City Council elections. Mr. Campos is
23 Latino, and he is a member of a class of voters that constitutes a protected class for purposes of
24 the federal Voting Rights Act of 1965, as amended, and the California Voting Rights Act of
25 2001.

26 7. Plaintiff Oscar Gomez is a resident of the City of Escondido. He is over the age
27 of 18 and eligible and registered to vote and he intends to vote in elections for the Escondido
28 City Council. Mr. Gomez is Latino, and he is a member of a class of voters that constitutes a

1 protected class for purposes of the federal Voting Rights Act of 1965, as amended, and the
2 California Voting Rights Act of 2001.

3 8. Plaintiff Mateo Saldivar is a resident of the City of Escondido. He is over the age
4 of 18 and eligible and registered to vote in elections for the Escondido City Council. Mr.
5 Saldivar votes in city elections, including Escondido City Council elections. Mr. Saldivar is
6 Latino, and he is a member of a class of voters that constitutes a protected class for purposes of
7 the federal Voting Rights Act of 1965, as amended, and the California Voting Rights Act of
8 2001.

9 9. Plaintiff Samuel Saldivar is a resident of the City of Escondido. He is over the
10 age of 18 and eligible and registered to vote in elections for the Escondido City Council. Mr.
11 Saldivar votes in city elections, including Escondido City Council elections. Mr. Saldivar is
12 Latino, and he is a member of a class of voters that constitutes a protected class for purposes of
13 the federal Voting Rights Act of 1965, as amended, and the California Voting Rights Act of
14 2001.

15 10. Plaintiff State Building and Construction Trades Council of California, AFL-CIO
16 (“State Council”) is a non-profit labor federation composed of about 131 local unions, 16 district
17 labor councils, and 22 local building trades councils that collectively represent about 300,000
18 men and women who work in the building and construction trades in California. The State
19 Council was founded in 1901 to advocate for improvements in the general welfare of the
20 members of its affiliates (“affiliated members”) and of all working men, women, and minors in
21 the construction industry in California. Members of the State Council’s affiliates, including
22 Laborers’ Union Local 89 and United Association of Plumbers, Steamfitters, HVAC Techs, and
23 Apprentices Local 230, are Latinos who reside and vote in Escondido.

24 11. Part of the State Council’s mission, as set forth in its Constitution, is to protect
25 and strengthen democratic institutions, to advance the standing of affiliated members in
26 community life and affairs, and to enhance affiliated members’ voting rights under state and
27 federal law. The State Council devotes its time, energy, and resources to these goals, including
28 by registering affiliated members to vote and by conducting voter education activities for

1 affiliated members. By diluting the voting strength of Escondido’s Latino voters, Escondido’s
2 at-large method for electing City Council members harms the State Council’s efforts to protect
3 and promote the voting rights of its affiliated members in Escondido and to enhance their
4 participation in Escondido’s civic and political life. In addition, the City Council elected through
5 Escondido’s existing at-large system has pursued economic policies contrary to the interests of
6 working people in Escondido, including Latino workers, harming the State Council’s affiliated
7 members.

8 12. Defendant the City of Escondido (“Escondido”) is a general law city located in the
9 County of San Diego. The City of Escondido is a political subdivision within the meaning of
10 Cal. Elections Code §14026(a).

11 13. Defendant Escondido City Council is the governing and legislative body for the
12 City of Escondido, within the meaning of Cal. Elections Code §14028(a), and is situated in the
13 County of San Diego.

14 14. Defendant Sam Abed is the Mayor of the City of Escondido, and a member of the
15 Escondido City Council. He is sued in his official capacity only. He resides in the County of
16 San Diego.

17 15. Defendant Marie Waldron is the Deputy Mayor of the City of Escondido, and a
18 member of the Escondido City Council. She is sued in her official capacity only. She resides in
19 the County of San Diego.

20 16. Defendant Marsha Whalen is the Escondido City Clerk. Ms. Whalen is
21 responsible for overseeing local elections within the City of Escondido. She is sued in her
22 official capacity only. She resides in the County of San Diego.

23 17. All Defendants have been informed by Plaintiffs that Escondido’s current at-large
24 method for electing members of the City Council violates state and federal voting rights laws.
25 Defendants, however, have refused to address their ongoing violation of the voting rights of
26 Escondido’s Latino voters by adopting a district-based method of electing City Council
27 members.

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1 **JURISDICTION AND VENUE**

2 18. This Court has jurisdiction over this action pursuant to the California
3 Constitution, Article VI, §10, because this case is a cause not given by statute to other trial
4 courts. This cause of action is within the unlimited civil jurisdiction of this Court. Cal. Code
5 Civ. Proc. §88.

6 19. Venue is proper in this Court because defendant City of Escondido and defendant
7 Escondido City Council are cities or local agencies situated in the County of San Diego. Cal.
8 Code Civ. Proc. §394(a); Cal. Elections Code §14032. Venue is also proper in this Court
9 because all defendants are situated in the County of San Diego and the injuries suffered by
10 plaintiffs have occurred and, unless enjoined, will continue to occur, in the County of San Diego.
11 Cal. Code Civ. Proc. §395(a).

12 **FACTUAL ALLEGATIONS**

13 **ESCONDIDO CITY GOVERNMENT**

14 20. Escondido is a general law city organized under California general law, Cal. Gov't
15 Code §34100 *et seq.*

16 21. Escondido is governed by a five-member Escondido City Council, which acts as
17 the governing and legislative body for Escondido.

18 22. The Escondido City Council is composed of the Mayor and four City Council
19 members, all of whom serve four year terms. City Council elections are staggered such that two
20 City Council members are elected every two years. City Council elections are conducted "at-
21 large," within the meaning of Cal. Gov't Code §14026(a)(1). All Escondido voters, regardless of
22 where they reside in Escondido, vote for their preferred City Council candidate, and the two
23 candidates who receive the most votes are elected to the City Council.

24 23. As described herein, this at-large method of electing City Council members
25 prevents Latino voters from electing the candidates of their choosing, influencing City Council
26 elections, and otherwise participating in politics to the same extent as non-Latino voters. Latinos
27 constitute a significant portion of both Escondido's total population and its voting population
28 but, as a result of racially polarized voting patterns within Escondido, candidates preferred by

1 Latino voters are regularly defeated by the candidates preferred by Escondido's non-Latino
2 majority. By contrast, if Escondido were to implement a district-based method of electing City
3 Council members, Escondido could create one or more districts in which Latino voters constitute
4 a greater proportion of eligible voters and thus no longer have their electoral preferences defeated
5 by the votes of Escondido's non-Latino majority.

6 **ESCONDIDO'S LATINO POPULATION**

7 24. Latinos constitute a sizable and growing portion of Escondido's population. As of
8 the 2010 census, the total population of Escondido was 143,911. Of that population, 70,326
9 were Hispanic or Latino – i.e., 48.9% of Escondido's total population. That number represents
10 an increase of nearly 19,000 people over 10 years. In 2000, only 51,693 of Escondido's 133,559
11 residents – 38.7% of the overall population – were Hispanic or Latino. The overall population of
12 Escondido increased by only 7.75% from 2000 to 2010, while its Latino population increased by
13 36% during that period.

14 25. Escondido's Latino population is significantly younger than Escondido's
15 population as a whole. As a result of that and other factors, approximately 27% of Escondido's
16 voting-age citizens are Latino.

17 26. Escondido's Latino residents are not evenly dispersed throughout Escondido.
18 Instead, Escondido's Latino residents, including its Latino voting-age citizens, are concentrated
19 in specific neighborhoods, including neighborhoods in Escondido's historic central core such as
20 the Mission Park neighborhood.

21 27. Escondido's Latino residents bear the present effects of past discrimination in
22 numerous respects, and white, non-Latino residents of Escondido fare better than Escondido's
23 Latino residents on numerous measures of socioeconomic status.

24 28. Latino residents of Escondido are twice as likely as non-Latino, white residents
25 (“white residents”) to be food stamp recipients, and are 50% more likely to live in poverty.

26 29. There is a large gap in educational achievement between Escondido's Latino
27 residents and its white residents, with Latino residents far less likely to complete high school or
28 receive a college degree. More than 50% of Escondido's Latino residents have not received a

1 high school diploma, compared to only 26% of Escondido’s white residents. Just over 11% of
2 Escondido’s Latino residents have received an associate’s, bachelor’s, or other advanced degree,
3 compared to 32% of Escondido’s white residents. Escondido’s Latino students also perform at a
4 significantly lower level than Escondido’s white students on the California High School Exit
5 Exam (“CAHSEE”) and the California Standardized Test (“CST”).

6 30. Escondido’s Latino residents are also far less likely than its white residents to
7 have health insurance coverage. This is especially true for Latino residents who do not have
8 access to state insurance programs for children or the elderly. For example, while 83.6% of
9 Escondido’s white residents between the ages of 55 and 64 have health insurance coverage, only
10 54.3% of Latino residents in that age group have health insurance coverage.

11 **ESCONDIDO’S LATINO RESIDENTS**

12 **HAVE LITTLE OR NO INFLUENCE IN CITY POLITICS**

13 31. Although Escondido has a large and growing Latino population, that population
14 exercises little or no influence within Escondido’s political sphere, which is marked by racially
15 polarized voting and appeals to race and ethnicity that have prevented Latino-preferred
16 candidates from being elected to the City Council.

17 *Latino City Council Candidates*

18 32. Although Escondido has a large Latino population, in Escondido’s 123-year
19 history, there have only ever been two Latino members of the Escondido City Council, only one
20 of whom acknowledged her Latino heritage before her election to the City Council.

21 33. The first Latino to serve on Escondido’s City Council was Elmer Cameron, who
22 served on the Escondido City Council from 1992 to 1996. However, Mr. Cameron did not
23 acknowledge that he was Latino until after his election to the City Council. He was defeated in
24 the 1996 City Council elections.

25 34. Olga Diaz was the first openly Latino candidate to be elected to the Escondido
26 City Council. She was elected to the City Council in 2008, after unsuccessfully running in 2006.
27 Ms. Diaz attributed her 2006 failure to the public focus on issues relating to race, ethnicity, and
28 Escondido’s Latino population – particularly its undocumented immigrant population – during

1 the 2006 campaign. Ms. Diaz downplayed her Latino heritage during the 2008 campaign,
2 emphasizing that both her first husband and her current husband are white. Ms. Diaz’s support in
3 2008 also correlated positively with support for Democratic presidential candidate Barack
4 Obama, who performed significantly better in Escondido in 2008 than prior Democratic
5 presidential candidates had performed or can be expected to perform in the future

6 35. Although other Latinos have run for Escondido City Council, none have been
7 successful. Most notably, Carmen Miranda ran for City Council in both 2006 and 2010 and was
8 unsuccessful in both years. She reported that, during the 2006 campaign, some Escondido
9 residents asked to see her “immigration papers” while she was walking precincts.

10 36. The difficulty Latino candidates have faced in Escondido City Council elections is
11 mirrored in other Escondido elections, such as those to elect members of the Escondido Union
12 School District (“EUSD”) school board. Although a majority of EUSD’s students are Latino, the
13 EUSD school board currently has no Latino members and no members who reside in
14 Escondido’s central, highly Latino core. The EUSD school board recently decided to replace its
15 existing at-large method of electing board members with a district-based system in order to avoid
16 potential liability under the California Voting Rights Act of 2001.

17 *Racially Polarized Voting*

18 37. There is a clear and consistent pattern of racially polarized voting between Latino
19 and non-Latino voters in Escondido elections. Escondido’s Latino voters tend to vote similarly
20 to one another, while voting differently from non-Latino voters. As a result, Latino voters have
21 been unable to influence the results of elections within Escondido, which are dictated by the
22 preferences of Escondido’s non-Latino voters.

23 38. Examples of Escondido elections exhibiting racially polarized voting between
24 Latino and non-Latino voters include, but are not limited to:

- 25 (A) **The 2006 City Council Election**, in which Latino candidates Olga Diaz
26 and Carmen Miranda received twice as much support from Latino voters
27 as from white voters, but were both unsuccessful;

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- 1 (B) **The 2008 City Council Election**, in which there was a ten-point
2 differential in Latino and white support for Latino candidate Olga Diaz;
- 3 (C) **The 2010 City Council Election**, in which Latino voters provided more
4 than three times as much support as white voters for Latino candidate
5 Carmen Miranda; and
- 6 (D) **Numerous statewide elections**, including the 1996 vote on Proposition
7 209, which was widely viewed as anti-minority; the 2006 Democratic
8 Primary for Lieutenant Governor; and the 2010 Democratic primaries for
9 Attorney General and Insurance Commissioner. In each of these statewide
10 races, Latino voters consistently voted differently than white voters.
11 Specifically, Latino voters provided far less support for Proposition 209
12 than white voters and supported Latino candidates in the 2006 and 2010
13 Democratic primaries to a far greater extent than white voters.

14 *The Escondido City Council Is Unresponsive to the Latino Community's Needs*

15 39. Because Escondido's Latino residents have little or no political influence, the
16 Escondido City Council is not responsive to the needs of Escondido's Latino community. Rather
17 than addressing those needs, the City Council has pursued aggressive anti-immigrant policies that
18 have inflamed racial and ethnic tensions within Escondido.

19 40. For example, in 2006 the National Latino Research Center at California State
20 University, San Marcos released a report on Escondido's heavily Latino Mission Park
21 neighborhood. The report identified the difficulties facing that low-income neighborhood and
22 suggested steps that could be taken to address the neighborhood's needs, such as providing
23 additional spaces and activities for youth, expanding the neighborhood's educational resources,
24 and improving employment opportunities within the neighborhood.

25 41. The City Council did not implement the recommendations in the report. Instead,
26 members of the City Council used the report to justify a new law prohibiting Escondido landlords
27 from renting apartments or other "dwelling units" to undocumented immigrants (hereinafter the
28 "Ordinance").

1 42. The Ordinance was widely perceived as anti-Latino. Political rallies regarding the
2 Rental Ordinance were heated, divided between Latinos who opposed the Ordinance and whites
3 who supported the Ordinance, and marked by appeals to race and ethnicity. After a federal judge
4 concluded that the Ordinance was likely unconstitutional and granted a temporary restraining
5 order prohibiting its enforcement, the City Council abandoned its defense of the Ordinance.

6 43. Since that time, Escondido and the City Council have considered or implemented
7 numerous other anti-immigrant policies widely perceived as anti-Latino, while still failing to
8 address the needs of Escondido’s Latino residents. For example, the City’s police department
9 has established checkpoints in or near Latino neighborhoods at which all drivers are stopped and
10 asked to provide their driver’s licenses. Likewise, the City Council has considered imposing
11 overnight parking restrictions targeting heavily Latino neighborhoods and creating new
12 limitations on the solicitation of work by day laborers in Escondido – a group composed largely
13 of Latinos. These policies have angered Escondido’s Latino residents and made them feel
14 unwelcome and disfavored in Escondido.

15 *Appeals to Race and Ethnicity in the Political Sphere*

16 44. Escondido’s political culture is marked by appeals to race or ethnicity, and issues
17 relating to race and ethnicity frequently determine electoral outcomes in Escondido.

18 45. Debates regarding Escondido’s anti-immigrant policies have included frequent
19 appeals to race and ethnicity. For example, the debates and rallies surrounding passage of the
20 2006 rental ordinance included repeated appeals to race or ethnicity by both proponents and
21 opponents of the Ordinance. During the 2006 City Council campaign, residents of Escondido
22 asked to see Carmen Miranda’s “immigration papers” while she walked precincts.

23 46. Similarly, in 2007, City Council member (now Deputy Mayor) Marie Waldron
24 published a commentary in a local newspaper asserting that the country’s “values, heritage,
25 culture [and] language” were “under full attack” by immigrant populations. Waldron’s
26 commentary was understood and received as an attack “on all things Mexican” because it
27 “commingl[ed] Latino heritage and illegal immigration.”

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1 47. Likewise, shortly before the 2008 City Council elections, City Council member
2 (now Mayor) Sam Abed asserted that “[p]oor people and Latinos can’t be outside the regulations.
3 We can be compassionate with them, but at the same time we have to respect the rights of
4 citizens.” Like Waldron’s commentary, Abed’s statements were understood and received as an
5 attack on all Latinos in Escondido.

6 48. Another example of the prevalence of racial and ethnic appeals in Escondido’s
7 political culture is provided by the four-page flyer that Escondido Police Officers Association
8 distributed in March 2009 to generate opposition to compensation cuts proposed by the City
9 Council. The front page of the flyer stated that gang members outnumber Escondido’s police
10 officers on the streets by almost 6 to 1, and featured a picture of five young Latino male gang
11 members from a notoriously violent gang in Los Angeles. All of the police officers pictured in
12 the flyer were white. After seeing the flyer Olga Diaz stated that it would “make people afraid of
13 young Latino men,” and another Latino resident of Escondido characterized the flyer as “fear-
14 mongering at its worst with racist overtones” that would “alienate a huge part of the community.”

15 49. When running for mayor in 2010, Mr. Abed sent voters another racially-charged
16 flyer. Mr. Abed’s flyer depicted a group of Latinos crossing a highway and stated, “There is only
17 one candidate we can trust to uphold the rule of law in Escondido.”

18 50. The sharp ethnic and racial divides in Escondido are evident in recent hate-crime
19 statistics. From 2009 to 2010, hate crimes against Latinos in San Diego County as a whole
20 increased 46.9 percent, and the number of hate crimes against Latinos in Escondido in particular
21 doubled.

22 51. Race and ethnicity often determine political outcomes in Escondido. For
23 example, Olga Diaz attributed her loss in the 2006 City Council election to her ethnicity and the
24 public’s focus on issues relating to race and ethnicity. She was successful in 2008 only after
25 playing down her Latino heritage by stating that she was “just a candidate, not a Latina
26 candidate” and explaining that her campaign was not about race or immigration.

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1 **Latino Choice or Latino Influence Districts Could Be Created**

2 52. Escondido’s existing at-large method for electing members of the City Council,
3 combined with the racially polarized voting in Escondido, prevents Escondido’s Latino
4 population from electing the candidates of their choice or influencing the outcome of City
5 Council elections. Even when a majority of Latino voters support a candidate, the vote dilution
6 caused by the at-large election method and the overall numerical superiority of non-Latino voters
7 prevents Latino voters from successfully electing Latino-preferred candidates.

8 53. For purposes of determining whether Escondido’s at-large system is consistent
9 with the California Voting Rights Act of 2001 and the federal Voting Rights Act of 1965, as
10 amended, it must be compared to the district-based system that could be implemented in its
11 place. In such a system, members of the Escondido City Council would have to reside within
12 geographically defined districts that are divisible subparts of Escondido, and would be elected
13 only by voters residing within the district they seek to represent.

14 54. Escondido’s Latino voters are concentrated in particular neighborhoods such that,
15 under a district-based method of electing City Council members, Escondido could create a single
16 district in which Latino voters would constitute a majority of eligible voters and thus be able to
17 elect the City Council candidate of their choosing. Alternatively, given the geographic
18 concentration of Escondido’s Latino voters, it is also possible to create two or more districts in
19 which Latinos constitute a much greater proportion of eligible voters (albeit not a majority) than
20 they do under Escondido’s current at-large system. In these “influence” or “crossover” districts,
21 the preferences of Latino voters would have far greater weight than they do under the current at-
22 large system.

23 **FIRST CAUSE OF ACTION**
24 **BY ALL PLAINTIFFS AGAINST ALL DEFENDANTS**
25 **(California Voting Rights Act of 2001, Cal. Elections Code §14025 et seq.)**

26 55. Plaintiff incorporates by reference the allegations of fact set forth in the
27 previous paragraphs.

28 56. Defendants employ an at-large method of election, as that term is defined in Cal.
Elections Code §14026(a), for elections to the Escondido City Council.

1 57. Racially polarized voting has occurred, and continues to occur, in elections for
2 members of the Escondido City Council and in elections incorporating other electoral choices by
3 Escondido’s voters.

4 58. Escondido’s at-large method of electing members of the City Council impairs the
5 ability of Latino voters to elect candidates of their choice or to influence the outcome of
6 elections, as a result of the dilution and abridgement of their rights.

7 59. Defendants, collectively and individually, are responsible for imposing, applying,
8 maintaining, and/or failing to prevent the use of Escondido’s at-large system for electing
9 members of the City Council.

10 60. An actual controversy has arisen and now exists between the parties relating to the
11 legal rights and duties of all Plaintiffs and Defendants for which all Plaintiffs desire a declaration
12 of rights.

13 61. Defendants’ wrongful conduct has caused, is causing, and unless enjoined will
14 continue to cause irreparable injury to Plaintiffs. Plaintiffs have no adequate remedy at law for
15 the injury they have suffered, are suffering, and will continue to suffer unless Defendant’s
16 wrongful conduct is enjoined.

17 **SECOND CAUSE OF ACTION**
18 **BY ALL PLAINTIFFS AGAINST ALL DEFENDANTS**
19 **(Voting Rights Act of 1965, as amended, 42 U.S.C. §1973 *et seq.*)**

20 62. Plaintiff incorporates by reference the allegations of fact set forth in the
21 previous paragraphs.

22 63. Escondido’s at-large method of electing members of the City Council results in
23 the denial or abridgment, on account of race or color, of the right of Escondido’s Latino voters to
24 vote, by diluting Latino voting strength. The at-large system impairs the ability of Latino voters
25 to elect candidates of their choice or to influence the outcome of elections, as a result of the
26 dilution and abridgement of their rights, and gives Escondido’s Latino voters less opportunity
27 than other members of the electorate to participate in the political process.

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1 (6) Such other and further relief as the nature of Plaintiffs' cause may warrant.

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3 Dated: December 20, 2011

JAMES M. FINBERG
SCOTT A. KRONLAND
P. CASEY PITTS
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6 By: _____
7 JAMES M. FINBERG

8 Attorneys for Plaintiffs
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