

# Exhibit C

SUPERIOR COURT OF WASHINGTON FOR KITTITAS COUNTY

EVANGELINA AGUILAR, SUSAN SOTO  
PALMER, ROGELIO MONTES, CANDY  
GUTIÉRREZ, and ONEAMERICA, a  
Washington nonprofit corporation,

Plaintiffs,

v.

YAKIMA COUNTY, a Washington municipal  
entity, VICKI BAKER, NORM CHILDRESS,  
RON ANDERSON, in their official capacities  
as members of the Yakima County Board of  
Commissioners,

Defendants.

No.

COMPLAINT FOR INJUNCTIVE RELIEF  
UNDER THE WASHINGTON VOTING  
RIGHTS ACT

**I. INTRODUCTION**

1.1 This action challenges the at-large electoral system used by Yakima County to elect members of its Board of Yakima County Commissioners (“the Commission”). The current at-large system dilutes the votes of Latino voters in Yakima County, denying them equal opportunity to elect candidates of their choice to the Commission in violation of the Washington Voting Rights Act (“WVRA” or “the Act”), RCW 29A.92.<sup>1</sup>

1.2 The Latino community makes up almost half of Yakima County and one-third of its citizen voting age population (“CVAP”). Yet only one Latino candidate has ever won a seat on the three-member Commission, and candidates supported by the Latino community are

<sup>1</sup> This Complaint uses the terms “Latino” and “Hispanic” interchangeably to refer to individuals who self-identify as Latino or Hispanic.

1 routinely defeated in races for political office in Yakima County. These disparities exist because  
 2 Yakima County maintains an at-large electoral system in which voters of the entire county  
 3 choose every member of the Commission by plurality vote. Because elections in Yakima County  
 4 exhibit polarized voting along racial lines, candidates backed by the Latino community rarely get  
 5 enough countywide support to win even a single seat on the Commission. Meanwhile, candidates  
 6 preferred by white voters, who rarely support Latino-backed candidates, often win every seat. As  
 7 a result, Latino voters are deprived of their equal right to elect candidates of their choice as  
 8 guaranteed by the WVRA.

## 9 II. PARTIES

10 2.1 Plaintiffs EVANGELINA “BENGIE” AGUILAR, SUSAN SOTO PALMER,  
 11 ROGELIO MONTES and CANDY “DULCE” GUTIÉRREZ are Latino registered voters who  
 12 reside in Yakima County.

13 2.2 Plaintiff Aguilar served on the Sunnyside City Council from 2001–2005. She ran  
 14 for reelection to that seat in 2005 but was not elected. In 2018, she ran for State Senate District  
 15 15, which includes a part of Yakima County, but was not elected.

16 2.3 Plaintiff Palmer ran for Yakima County Commission District 3 in 2018 but was  
 17 not elected. In 2016, she ran for State House District 14, which includes a part of Yakima  
 18 County, but was not elected.

19 2.4 Plaintiff Montes ran to represent District 2 on the Yakima City Council in 2011  
 20 but did not advance to the at-large general election. In 2018, he ran again to represent District 2  
 21 but withdrew his candidacy.

22 2.5 Plaintiff Gutiérrez was elected to represent District 1 on the Yakima City Council  
 23 in 2015 after a federal district court ordered the City of Yakima to discontinue at-large elections.  
 24 She served in that position for one term and did not seek reelection.

25 2.6 Plaintiff ONEAMERICA is a Washington nonprofit organization whose members  
 26 include Latino registered voters who reside in Yakima County. Securing fair representation of  
 27 the Latino community in Yakima County government is directly related to OneAmerica’s

mission to advance “fundamental principles of democracy and justice at the local, state, and national levels by building power within immigrant communities in collaboration with key allies.” OneAmerica works to achieve its mission in part by advocating for voting rights reforms and increasing civic engagement and turnout among voters in immigrant and refugee communities, including Latino voters, through voter registration drives, voter education, and developing candidates for appointed and elected office. Electoral systems that systematically disadvantage the Latino community create a drain on OneAmerica’s organizational resources by requiring dedication of greater time and funds to these civic engagement efforts. OneAmerica’s voter registration and outreach activities and their candidate development efforts require additional funds to be effective when Yakima County’s electoral system unfairly dilutes the Latino vote.

2.7 Defendant YAKIMA COUNTY (“the County”) is a Washington municipal corporation and a political subdivision within the meaning of and subject to the requirements of the WVRA. *See* RCW 29A.92.010. The County maintains an electoral system in which the three members of the Commission are nominated in a district-based top-two primary and then elected in an at-large general election.

2.8 Defendants VICKI BAKER, RON ANDERSON, and NORM CHILDRESS (collectively “the Commissioners”) are the current members of the Commission. The Commission has the authority to change the County’s electoral system to remedy a violation of the WVRA. The Commissioners are each sued in their official capacity only.

### III. JURISDICTION AND VENUE

3.1 This Court has subject matter jurisdiction over this Complaint because Washington state courts have jurisdiction over claims brought under the WVRA, RCW 29A.92.

3.2 Venue is proper in Kittitas County pursuant to RCW 29A.92.090 and RCW 36.01.050(2).

## IV. FACTS

### A. The Yakima County Commission

4.1 The Commission is the governing body of Yakima County and is composed of three commissioners. Each commissioner represents one of three geographic districts and must live in the district they represent.

4.2 The County uses a district-based top-two primary and an at-large general election system to elect commissioners. This means that candidates are first nominated in a primary election by voters of their district. The top two vote-getters in each district advance to the general election. In the general election, voters *of the entire county* select the winner in each district.

4.3 County commissioners are elected to serve staggered four-year terms. Commission elections therefore take place every two years. The most recent election for a Commission seat (District 3) was held on November 6, 2018. The election for the other two Commission seats (Districts 1 and 2) will be held on November 3, 2020.

4.4 As the County's legislative authority, the Commission is responsible for the overall administration of County government, including adoption of annual budgets, enactment of ordinances, and appointments to advisory boards and commissions. The Commission oversees programs and services related to public health, environmental protection, housing, public works, and other matters that affect the interests and well-being of Latino residents.

### B. Yakima County Demographics

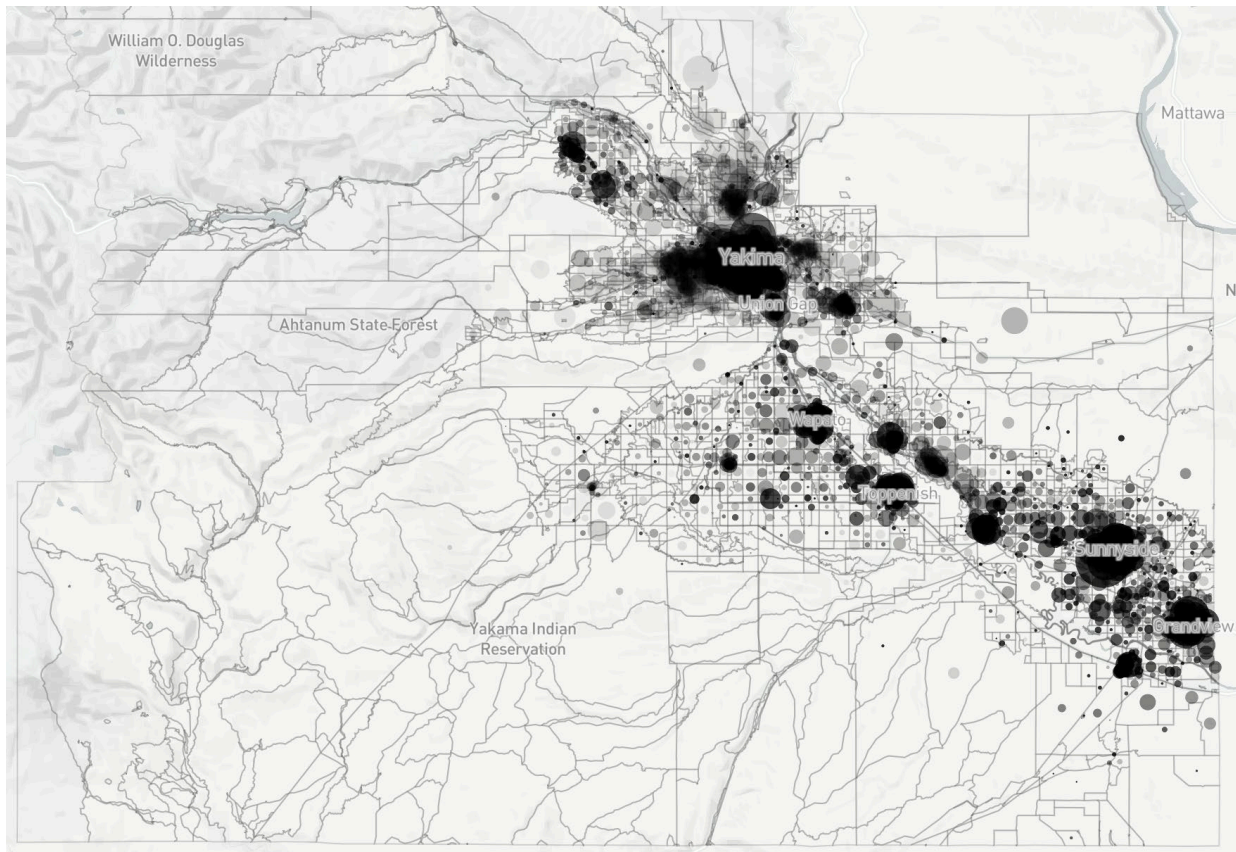
4.5 According to the 2010 Census, Yakima County had a total population of 243,231. According to the Census Bureau's 2014–2018 American Community Survey 5-Year Estimates ("2014–2018 ACS"), which are the most recent five-year estimates available, the total population was 249,325.

4.6 Yakima County's Latino population is the largest in the state and has grown in the last three decades, from 24% of the total population in 1990 to 48.9% percent according to the 2014–2018 ACS. Over the same period, the share of non-Hispanic white residents declined, from 70% in 1990 to 43.8% as of the 2014–2018 ACS. According to the 2014–2018 ACS, Native

American residents make up 3.6% of the County population and represent the County's next largest ethno-racial group.

4.7 Latino residents make up a smaller but sizeable share of the County's voting age and eligible voting population. The 2014–2018 ACS estimates a total voting age population ("VAP") of 174,900 for Yakima County, of whom 41.9% were Latino and 51% were non-Hispanic white. And the 2014–2018 ACS estimates that the County has a total CVAP of 144,660, of whom 30.7% are Latino and 61.3% are non-Hispanic white.

4.8 Latino residents live throughout Yakima County with heavier concentrations in Yakima City and Sunnyside. The following map<sup>2</sup> shows the geographic distribution of the Latino community in Yakima County. The size of the Latino population in each block is represented by a proportionally sized semi-transparent circle.



<sup>2</sup> This map was created on Districtr, a public mapping interface, by clicking "Data Layers" and "Show Demographics," and then selecting the variable "Hispanic population" displayed as "sized circles." See DISTRICTR, <http://www.districtr.org/edit>.

**C. The Washington Voting Rights Act**

4.9 In 2018, the Washington Voting Rights Act was enacted to “promote equal voting opportunity in certain political subdivisions.” 2018 Wash. Sess. Law Ch. 113 (codified at RCW 29A.92). The legislature found that “electoral systems that deny race, color, or language minority groups an equal opportunity to elect candidates of their choice are inconsistent with the right to free and equal elections” guaranteed by the Washington State Constitution. RCW 29A.92.005.

4.10 The WVRA therefore prohibits political subdivisions from maintaining any “method of electing the governing body of a political subdivision . . . that impairs the ability of members of a protected class or classes to have an equal opportunity to elect candidates of their choice as a result of the dilution or abridgment of the rights of voters who are members of a protected class or classes.” RCW 29A.92.020.

4.11 A violation of the WVRA is established if (a) elections in the political subdivision exhibit polarized voting and (b) members of a protected class or classes do not have an equal opportunity to elect candidates of their choice as a result of the dilution or abridgment of their rights. RCW 29A.92.030.

**D. Elections in Yakima County Exhibit Polarized Voting**

4.12 Elections in Yakima County exhibit polarized voting along racial lines.

4.13 Polarized voting occurs when members of different racial or ethnic groups prefer different candidates. Yakima County elections are racially polarized because there is a significant difference in the candidates preferred by Latino voters and the candidates preferred by white voters.

4.14 Latino voters in Yakima County are politically cohesive and consistently vote as a bloc for common candidates of choice. Latino voters’ candidates of choice are rarely elected, however, because white voters frequently vote as a bloc to defeat Latino voters’ candidates of choice.

4.15 Polarized voting occurs regularly in elections for the Yakima County Commission. For example, in the 2018 election for District 3 County Commissioner, Latina



1 candidate Plaintiff Palmer had the support of 75% of Latino voters but only 25% of white voters.  
2 White voters overwhelmingly preferred and voted as a bloc to elect Plaintiff Palmer's white  
3 opponent. Similarly, in the 2016 election for District 2 County Commissioner, Latina candidate  
4 Debra Manjarrez had the support of 72% of Latinos but only 38% of white voters. White voters  
5 overwhelmingly supported and voted as a bloc to elect Ms. Manjarrez's white opponent.

6 4.16 Polarized voting pervades all elections in Yakima County and is not limited to  
7 elections in which at least one Latino candidate runs.

8 4.17 There is also evidence of polarized voting among Yakima County voters in  
9 elections for state, city, and other government offices, as well as in ballot measures and other  
10 electoral choices that affect the rights and privileges of Latino residents.

11 4.18 Indeed, in *Montes v. City of Yakima*, 40 F. Supp. 3d 1377, 1407, 1410 (E.D.  
12 Wash. 2014), a federal court found that there could be "no serious dispute that voting in Yakima  
13 is racially polarized" and that "the non-Latino majority in Yakima routinely suffocates the voting  
14 preferences of the Latino minority," citing nine local and state elections in which Latino voters in  
15 Yakima overwhelmingly preferred the same electoral outcome only to be defeated by a white  
16 majority. In that case, two Latino voters (including Plaintiff Montes of this lawsuit) successfully  
17 challenged the City of Yakima's at-large system for City Council elections under Section 2 of  
18 the federal Voting Rights Act of 1965.

19 4.19 In the 2018 election for State Senate District 15, over 71% of Latino voters  
20 backed candidate Plaintiff Aguilar, but she was defeated because white voters overwhelmingly  
21 bloc voted for Jim Honeyford, the white incumbent and current senator.

22 4.20 In the 2016 election for State House District 14, candidate Plaintiff Palmer won  
23 more than 84% of the Latino vote, but she won only 16% of the white vote. White voters instead  
24 voted as a bloc to overwhelmingly support her victorious white opponent.

25 4.21 In the 2012 non-partisan election for a seat on the Washington Supreme Court, the  
26 Latino candidate Steven González won statewide with 58% of the vote against the only other  
27 candidate Bruce Danielson, who is white. But in Yakima County, Mr. González lost, with 58%



1 support from Latino voters but only 28% support from white voters. Experts attribute  
2 Mr. González's poor showing in Yakima to his Latino surname.

3 4.22 In a 2011 City of Yakima ballot measure election, a staggering 98.2% of Latino  
4 voters supported Proposition 1, which would have replaced the at-large electoral system for City  
5 Council elections with a district-based system. *Montes*, 40 F. Supp. 3d at 1403. But only 38.4%  
6 of non-Latino voters voted in favor of Proposition 1, which failed by a wide margin, with only  
7 41.5% in favor and 58.5% opposed. *Id.*

8 4.23 In the 2009 at-large general election for two Yakima City Council positions,  
9 Latino candidates Sonia Rodriguez (Position 5) and Benjamin Soria (Position 7) each received  
10 an estimated 93% of Latino votes but lost by wide margins because of low support and bloc  
11 voting among non-Latino voters. *Id.* at 1402-03.

12 **E. Yakima County's At-Large Electoral System Dilutes the Voting Rights of Latinos**  
13 **and Denies Latinos an Equal Opportunity to Elect Candidates of their Choice**

14 4.24 Yakima County's at-large system for electing candidates to the Commission  
15 dilutes the votes of Latino voters and denies them equal opportunity to elect candidates of their  
16 choice because the majority white voting population is consistently able to defeat Latino-  
17 preferred candidates.

18 4.25 As long recognized by the U.S. Supreme Court, at-large systems, like that in  
19 Yakima County, create a grave risk of diluting minority voting rights. *See Thornburg v. Gingles*,  
20 478 U.S. 30, 47 (1986) ("This court has long recognized that . . . at-large voting schemes may  
21 operate to minimize or cancel out the voting strength of [minority members of] the voting  
22 population.") (internal quotation marks omitted). This is because where "minority and majority  
23 voters consistently prefer different candidates, the majority, by virtue of its numerical  
24 superiority, will regularly defeat the choices of minority voters." *Id.* at 48. The dilutive effect of  
25 at-large systems is even more pronounced when candidates must run for specific seats on  
26 staggered terms because such features "prevent[] a cohesive political group from concentrating  
27 on a single candidate." *Rogers v. Lodge*, 458 U.S. 613, 627 (1982).

1           4.26 As a result of Yakima County's at-large election system, the Latino community's  
 2 candidates of choice have rarely been elected to political office in the County. Upon information  
 3 and belief, only one Latino candidate has *ever* been elected to the Commission. At least three  
 4 Latino candidates have run for positions on the Commission in the past five years, but none has  
 5 prevailed despite overwhelming support among Latino voters.

6           4.27 Election outcomes under the City of Yakima's prior at-large election system also  
 7 provide strong evidence of the dilutive effect of at-large election systems on Latino voters in  
 8 Yakima County. Not a single Latino candidate had ever been elected to the Yakima City Council  
 9 under the City's prior at-large electoral system. Sonia Rodriguez was the first Latina appointed  
 10 to the City Council in 2008, but she then lost to a white candidate in the 2009 election, even with  
 11 the advantage of incumbency. And although three Latina candidates were elected to the City  
 12 Council in 2015, those wins came only after the City lost the *Montes* lawsuit and replaced its at-  
 13 large voting system with a district-based system. *See Montes*, 40 F. Supp. 3d at 1377.

14           4.28 Several other factors indicate the dilutive and discriminatory effects of Yakima  
 15 County's at-large electoral system.

16           4.29 The overall history of racial and ethnic relations between the Latino and white  
 17 communities in Yakima County has been described as "contentious and combative."<sup>3</sup> These  
 18 tensions between the white and Latino communities persist to the present day.<sup>4</sup> As one media  
 19 outlet has observed, "cultural conflicts" in Yakima are "apparent in public where Latinos and  
 20 non-Latinos gather at different parks and many businesses, and on the Internet, where forums  
 21 and comment boards for local audiences can often be loaded with xenophobic vitriol."<sup>5</sup>

22  
 23  
 24 <sup>3</sup> See Luis Ricardo Fraga, *Ethnicity and Race in Yakima, WA*, Expert Report Submitted on Behalf of  
 Plaintiffs in *Montes v. City of Yakima* No. 12-cv-3108 (E.D. Wash.) (Feb. 22, 2013), at 7–11.

25 <sup>4</sup> See *id.* (citing public commentary in the Yakima Herald-Republic throughout 2010–2011 demonstrating  
 26 that "racial tensions between Whites and Hispanics persist in the Yakima Valley").

27 <sup>5</sup> Mike Faulk, *Yakima's Cultural Divide*, YAKIMA HERALD (Oct. 16, 2015),  
[http://www.yakimaherald.com/news/elections/yakima\\_city\\_council/yakima-s-cultural-  
 divide/article\\_590c92b47416-11e5-949e-dbf62c92960.html](http://www.yakimaherald.com/news/elections/yakima_city_council/yakima-s-cultural-divide/article_590c92b47416-11e5-949e-dbf62c92960.html).

1           4.30 Latino residents in Yakima County also endure the widespread effects of past and  
2 present discrimination in areas such as employment, health care, and education, which impact  
3 their ability to engage in the political process.

4           4.31 According to the 2014–2018 ACS, Latino residents in Yakima County are about  
5 half as likely to have a high school diploma as white Yakima County residents. Only 5% of  
6 Latino students in Yakima County go on to obtain a bachelor’s degree or higher, as compared to  
7 23% of white students. Nearly a quarter of Latino residents in Yakima County live below the  
8 poverty line, as compared to only 11% percent of white residents. In the City of Yakima, “57%  
9 of Latino adults do not have health insurance, in comparison to only 18% of their white  
10 counterparts,” and “the rate of homeownership among Latinos is less than half than that among  
11 their white counterparts.” *Montes*, 40 F. Supp. at 1413.

12           4.32 Latino residents in Yakima County also disproportionately bear the harmful  
13 effects of environmental contamination. According to the U.S. Environmental Protection  
14 Agency, Latino residents in the Lower Yakima Valley experienced many years of unsafe nitrate  
15 levels in drinking wells, with the most severe nitrate levels near local dairies. In 2015, a federal  
16 consent decree required dairies to take some precautions to avoid contamination, but many  
17 Yakima County residents must continue to drink bottled water. Five years later, many wells still  
18 have nitrate levels exceeding the federal limit by five or ten times, and areas of the Yakima  
19 Valley are among the most environmentally hazardous in the state. Yet Yakima County officials  
20 have refused to take the necessary legislative and enforcement actions to ensure Latino residents  
21 have access to clean water.

22           4.33 The current COVID-19 pandemic also throws into sharp relief the persistent and  
23 dangerous inequities Yakima Latino residents face. As of June 2020, Yakima County had the  
24 highest rate of COVID-19 infections on the west coast, and the effects have fallen  
25 disproportionately on the Latino population. Latino residents account for over two-thirds of the  
26 positive COVID-19 cases in the County because of the high rate of infection among mostly  
27 Latino agricultural workers. Yet the Yakima Health District, which is overseen by the County

1 Commission, spends less per capita on health than any other county in Washington, and did not  
2 issue a directive requiring residents and workers to wear face coverings until June 3, 2020.

3 4.34 At-large election systems and polarized voting have resulted in limited  
4 representation of and outright indifference to the Latino community's interests on the County  
5 Commission, including but not limited to a lack of public investment in infrastructure in Latino  
6 neighborhoods and services that are most frequently used by Latino residents.

7 4.35 Many public materials produced by Yakima County are not translated into  
8 Spanish and are inaccessible to Spanish-speakers, who are disproportionately Latino.

9 4.36 Yakima County also maintains electoral devices and voting practices and  
10 procedures that enhance the dilutive effects of at-large elections. For example, the County's  
11 requirement that candidates run for specific Commission seats in staggered elections enhances  
12 the dilutive effect of its at-large system by making it harder for Latino voters to effectively  
13 coalesce around a preferred candidate. The County has also maintained voting procedures that  
14 directly suppress the Latino vote. Indeed, for several years after the passage of the Voting Rights  
15 Act of 1965, the County administered literacy tests to Latino voters despite directives from the  
16 state attorney general to end the practice. And, as recently as 2004, the U.S Department of  
17 Justice sued Yakima County for failing to provide Spanish-language voting materials and voter  
18 assistance as required by Section 203 of the federal Voting Rights Act. At least until the adoption  
19 of a consent decree in that case, Yakima County denied equal access to election information to  
20 Spanish-speaking voters, enhancing the dilutive effects of its at-large system.

21 4.37 Latino candidates for public office are frequently subject to racist appeals in  
22 political campaigns and racist statements by members of the public while conducting campaign  
23 activities. For example, while campaigning for Yakima City Council, a resident yelled at  
24 Plaintiff Gutiérrez: "Go back to Mexico!" While campaigning for Gabriel Muñoz during his  
25 2014 campaign for State Senate District 15, a constituent told Plaintiff Palmer that he himself  
26 was a racist and therefore would not vote for Mr. Muñoz. In that same race, Mr. Muñoz ran  
27 against a sitting incumbent who is known for referring to Latino people and other racial minority

1 groups as “colored” and for stating that “people of color are more likely poor” and are therefore  
 2 “more likely to commit crimes.”

### 3 V. CAUSE OF ACTION: WASHINGTON VOTING RIGHTS ACT

4 5.1 Plaintiffs repeat, replead, and incorporate by reference, as though fully set forth in  
 5 this paragraph, all the allegations of this Complaint.

6 5.2 A violation of the WVRA is established when elections in a political subdivision  
 7 exhibit polarized voting and members of a protected class do not have equal opportunity to elect  
 8 candidates of their choice as a result of vote dilution or abridgement.

9 5.3 Elections in Yakima County exhibit polarized voting along racial lines.

10 5.4 Latino voters in Yakima County are members of a protected class and do not have  
 11 equal opportunity to elect candidates of their choice because the County’s at-large electoral  
 12 system illegally dilutes Latino votes.

13 5.5 On January 15, 2020, Plaintiffs properly notified Yakima County by letter that the  
 14 County was in likely violation of the WVRA and that Plaintiffs intended to challenge the  
 15 County’s at-large electoral system unless the County adopted an appropriate remedy. RCW  
 16 29A.92.060.

17 5.6 Plaintiffs worked with the County in good faith to implement a remedy pursuant  
 18 to RCW 29A.92.070.

19 5.7 180 days have elapsed since Plaintiffs notified the County of its WVRA violation,  
 20 and the County has not obtained a court order stating that it has adopted a remedy that complies  
 21 with RCW 29A.92.020. *See* RCW 29A.92.080. Therefore, as registered voters who reside in  
 22 Yakima County and an organization with members who are registered voters who reside in  
 23 Yakima County, Plaintiffs have a right to file this suit and the suit is timely.

24 5.8 Plaintiffs are therefore entitled to the remedies available under the WVRA.

### 25 VI. REQUEST FOR RELIEF

26 WHEREFORE, Plaintiffs respectfully request that the Court:  
 27

6.1 Declare that Yakima County's at-large electoral system to elect members to the County Commission violates the WVRA, RCW 29A.92.020;

6.2 Enjoin Defendants, their agents and successors in office, and all persons acting in concert with, or as an agent of, any Defendants in this action from administering, implementing, or conducting any future elections in Yakima County under the current at-large electoral system;

6.3 Order the implementation of an electoral system for the County Commission that complies with RCW 29A.92.020 and other provisions of the WVRA;

6.4 Order that all future elections in Yakima County comply with the WVRA;

6.5 Grant Plaintiffs' attorneys' fees, costs, and litigation expenses pursuant to 29A.92.130; and

6.6 Grant any other relief that the Court may deem just and equitable.

Dated this 13th day of July, 2020.

Respectfully submitted,

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1 forthcoming  
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