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HON. THOMAS O. RICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ROGELIO MONTES and MATEO ARTEAGA,
 	
    Plaintiff,
 	
  v.
 	
CITY OF YAKIMA; MICAH CAWLEY, in his capacity as Mayor of Yakima; & MAUREEN ADKISON, SARA BRISTOL, KATHY COFFEY, RICK ENSEY, DAVE ETTL, & BILL LOVER, in their capacity as members of the Yakima City Counsel,
 	
    Defendant.
	No. CV-12-3108-TOR
	
	STATEMENT OF UNDISPUTED MATERIAL FACTS IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT
	
	NOTED FOR HEARING: August 18, 2014
	
	Telephonic Argument
	August 18, 2014 - 9:00 a.m.
	Call in number: (888) 273-3658
	Access Code: 2982935
	Security Code: 3018

   Plaintiffs Rogelio Montes and Mateo Arteaga, pursuant to Rule 56 of the

Federal Rules of Civil Procedure and Rules 7.1 and 56.1 of the Local Rules for

the United States District Court, Eastern District of Washington, file this

Statement of Undisputed Material Facts in support of Plaintiffs' Motion for

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Summary Judgment. The following facts are undisputed and constitute all material facts necessary to a determination in favor of Plaintiffs' Motion.[1]

I. YAKIMA CITY COUNCIL ELECTION SYSTEM

1.   The Yakima City Council consists of seven members, all of whom are elected to four-year terms in nonpartisan at-large elections. *See* Compl., ECF No. 1 ¶ 8; Answer, ECF No. 18 ¶ 8.

2.   Every seat or place on the council is elected separately. Candidates for City Council file for one of the particular places and compete only with the other candidates that file for that same place. *See* Answer ¶ 8; Charter of the City of Yakima Washington, Amend. No. 11 at 1-2 (Khanna Decl., Ex. 1 and hereinafter cited as "City Charter Amend."); Report of Richard L. Engstrom, Ph.D. ¶ 8 (Feb. 1, 2013) (Khanna Decl., Ex. 2 and hereinafter cited as "Engstrom Report").

3.   If there are more than two candidates for a particular place, all of them compete in a top-two primary election in which each voter may cast only one vote. *See* Compl. ¶ 8; Answer ¶ 8; Engstrom Report ¶ 8.

4.   The top two finishers in this primary then contest the at-large general election, in which each voter again may cast only one vote for that place. If only two candidates file for one of the places, they compete in an at-large general election. *See* Compl. ¶ 8; Answer ¶ 8; Engstrom Report ¶ 8.

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[1] All record citations are attached to the Declaration of Abha Khanna in Support of Plaintiffs' Motion for Summary Judgment (July 1, 2014) ("Khanna Decl."), which accompanies this filing.

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5.   Four of the places on the city council, identified as Districts 1, 2, 3, and 4, have a geographical residency district applied to them. These residency districts are mutually exclusive geographical areas that cover the entire city. *See* Answer ¶ 8; City Charter Amend. at 1-2; Engstrom Report ¶ 9.

6.   All of the candidates for Districts 1, 2, 3, and 4 must reside in the geographical district for that place, and in a primary election only voters residing in the district may vote. In the subsequent general election, however, all voters in the city may vote. Answer ¶ 8; City Charter Amend. 1-2; Engstrom Report ¶ 9.

7.   The other three seats on the council are identified as Positions 5, 6, and 7. Any person residing in the city, if otherwise qualified, may be a candidate for one of these seats. Both primary and general elections for these seats are held at-large, with every voter in the city allowed to cast a vote. Compl. ¶ 8; Answer ¶ 8; City Charter Amend. 1-2; Engstrom Report ¶ 9.

8.   Any candidate, in order to win a seat on the council, whether or not a residency district is assigned to it, must in effect win a majority of the votes cast in a city-wide general election. *See* Compl. ¶ 8; Answer ¶ 8; Engstrom Report ¶ 10.

9.   City Council positions have staggered terms, with staggered elections occurring every two years. Compl. ¶ 9; Answer ¶ 9.

10.   Yakima does not use a pure at-large system. In a pure at-large system every voter has a number of votes equal to the number of seats being filled, and can cast one vote apiece for as many candidates as there are seats. Under this arrangement, members of a minority group may employ a "single

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shot" voting strategy to increase the opportunity for their candidate of choice to finish among the top N candidates and win a seat. Single shot voting entails group members casting one vote, if they wish, for the candidate favored by the group, and not casting any of their remaining votes for any other candidate. By withholding their remaining votes from the candidates competing with their preferred choice, their candidate of choice has a better opportunity to finish among the top N candidates and win one of the N seats. *See* Engstrom Report ¶ 10.

11.   The place system in Yakima reduces the number of candidates that can win to one in every place, thereby precluding use of the "single shot" voting strategy. *See* Engstrom Report ¶ 10; Deposition of John Alford at 27:4-6, 28:8-12 (Feb. 19, 2014) (Khanna Decl., Ex. 3 and hereinafter cited as "Alford Dep.").

II.   YAKIMA DEMOGRAPHICS

12.   The City of Yakima encompasses about 28 square miles and is bounded to the east by the Yakima River and to the north (in part) by the Naches River. Yakima shares borders with Union Gap and Ahtanum to the south and Selah to the north. *See* Declaration of William S. Cooper ¶ 9 & fig.1 (Feb. 1, 2013) (Khanna Dec., Ex. 4 and hereinafter cited as "Cooper Initial Report").

13.   According to the 2010 Census, Yakima had a population of 91,067, with a Hispanic population of 37,587 (41.27%) and a non-Hispanic white population of 47,523 (52.18%). *Id.* ¶ 10.

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14.   In 2010, Yakima annexed several parcels of land. The City reports a 2011 population of 91,208, and thus the post-2010 Census annexation added 141 persons. *Id.* ¶ 10 n.1.

15.   According to the 2010 Census, Yakima had a total voting age population (i.e., age 18 and over) of 65,287, of whom 21,837 (33.45%) were Hispanic. In 2010, there were 39,290 (60.18%) non-Hispanic whites of voting age in Yakima. *Id.* ¶ 11.

16.   Plaintiffs engaged William Cooper as an expert to analyze Yakima's demographic profile and develop demonstrative single-member districts in the City of Yakima for purposes of this lawsuit. Mr. Cooper has a B.A. degree in Economics from Davidson College. He has testified at trial as an expert witness on redistricting and demographics in federal courts in thirty-four voting rights cases. Since the release of the 2010 Census in February 2011, he has developed several statewide legislative plans and has developed approximately 100 local redistricting plans. *Id.* ¶¶ 1-3.

17.   In February of 2013, Mr. Cooper provided an initial expert report in which he determined the rate of Latino citizenship in the City of Yakima based on the American Community Survey ("ACS") data released by the U.S. Census Bureau, and specifically based on the *2009-2011 ACS 3-Year Estimates* and the *2007-2011 ACS 5-Year Estimates*. *Id.* ¶ 22 & n.7.

18.   The Census Bureau subsequently released updated ACS estimates. Specifically, the Census Bureau released the *2010-2012 ACS 3-Year Estimates* dataset in November 2013 and the *2008-2012 ACS 5-Year Estimates* dataset in December 2013. The 2008-2012 special tabulation block group citizenship

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estimates by race and ethnicity were released in January 2014. In April 2014, Mr. Cooper updated the citizenship statistics reported in his previous declarations. Second Supplemental Declaration of William S. Cooper ¶ 2 & n.1 (Apr. 25, 2014) (Khanna Decl., Ex. 5 and hereinafter cited as "Second Supplemental Cooper Report").

19.   According to the *2009-2011 ACS 3-Year Estimates*, 29.39% of the overall Latino population is non-citizen and 45.95% of the Latino voting age population is non-citizen. The *2007-2011 ACS 5-Year Estimates* shows similar non-citizen rates for Yakima's Latinos–30.08% of all Hispanics and 46.78% of Latinos over 18. Cooper Initial Report ¶ 22.

20.   The updated ACS data reflect a decrease for both non-citizen categories in Yakima. According to the *2010-2012 ACS 3-Year Estimates*, 27.67% of the overall Latino population is non-citizen and 43.17% of the Latino voting age population is non-citizen. The *2008-2012 ACS 5-Year Estimates* report that 29.30% of all Latinos and 45.47% of Latino voting age persons are non-citizens. Second Supplemental Cooper Report ¶¶ 4-6.

21.   Of the 15,748 Latinos in Yakima under 18 in the *2009-2011 ACS 3-Year Estimates,* just 5.52% are non-citizens. Of the 15,011 Latinos in Yakima under 18 in the *2007-2011 ACS 5-Year Estimates,* just 5.78% are non-citizens. Cooper Initial Report ¶ 24.

22.   The updated ACS data indicate that the Latino non-citizen rate in Yakima will continue to drop. Of the 15,946 Latinos in Yakima under the age of 18 in the *2010-2012 ACS 3-Year Estimates*, just 4.36% are non-citizens. Of the 15,500 Latinos in Yakima under the age of 18 in the *2008-2012 ACS 5-*

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Year Estimates, just 5.29% are non-citizens. Second Supplemental Cooper Report ¶ 7.

23.   Latino citizenship as a percentage of all citizens and adult citizens increased year over year in the two ACS survey data sets. According to the *2009-2011 ACS 3-Year Estimates*, Latinos represent 34.13% of the citizen population in Yakima and 22.21% of the citizen voting age population. The more recent *2010-2012 ACS 3-Year Estimates*, meanwhile, reflects that Latinos represent 35.67% of the citizen population in Yakima and 24.17% of the citizen voting age population. According to the *2007-2011 ACS 5-Year Estimates,* Latinos comprise 32.96% of the citizen population in Yakima and 21.34% of the citizen voting age population. The more recent *2008-2012 ACS 5-Year Estimates*, meanwhile, reflects that Latinos comprise 34.34% of the citizen population in Yakima and 22.66% of the citizen voting age population. Cooper Initial Report ¶ 25; Second Supplemental Cooper Report ¶ 8 & fig.1.

24.   Mr. Cooper originally obtained from the Yakima County Elections Division a list of all registered voters in the City of Yakima as of January 2013. He matched that list to a list of over 12,000 Spanish surnames prepared by the U.S. Department of Justice ("DOJ") to determine the number of registered voters with Spanish surnames. He included in his count persons with surnames that in any part match Spanish surnames on the DOJ list. Cooper Initial Report ¶¶ 35-36.

25.   Using this same technique, Mr. Cooper recalculated the number of registered voters with Spanish surnames in Yakima upon obtaining updated

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voter registration data from the Yakima County Elections Division in March 2014. Second Supplemental Cooper Report ¶¶ 2, 9.

26.   Based on the Spanish surname match to data reported by the Yakima County Elections Division in March 2014, 19.03% of registered voters in Yakima are Latino. After including persons with compound or hyphenated Spanish surnames, the Spanish surname registered voter count reflects that 19.56% of registered voters in Yakima are Latino. *Id.* ¶ 9.

27.   The majority of Yakima's Latino population resides east of 16th Avenue. The area east of 16th Avenue encompasses a little more than one-third (9.78 square miles) of the 28-square mile area of Yakima. A Latino population of 26,267 resides in this area, representing nearly three-fourths (72.54%) of the City's 2010 Latino population. Cooper Initial Report ¶¶ 26-27 & fig.5.

28.   Similarly, a significant portion of the Latino citizen voting age population in Yakima resides east of 16th Avenue. Specifically, all 2010 Census block groups with 40% or more Latino citizen voting age population are located in the area east of 16th Avenue. *Id.* ¶ 28 & fig.6.

III.   PLAINTIFFS' DEMONSTRATIVE PLANS

29.   In his initial and supplemental reports in this case, Mr. Cooper created five demonstrative plans, each of which contains seven single-member districts. He initially determined the rates of Latino citizenship in each of his demonstration districts based on the *2007-2011 ACS 5-Year Estimates*. *See* Cooper Initial Report ¶¶ 38; *see also* Supplemental Declaration of William S.

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Cooper at figs. 7, 11, 13 (Apr. 19, 2013) (Khanna Decl., Ex. 6 and hereinafter cited as "First Supplemental Cooper Report").

30.   In April of 2014, Mr. Cooper provided a supplemental report updating the rates of Latino citizenship in each of his demonstration districts based on the *2008-2012 ACS 5-Year Estimates.* Second Supplemental Cooper Report ¶ 10.

31.   The ACS data provide block group estimates of citizen voting age population. Census block estimates of the citizen voting age population are not available from the ACS or any other Census Bureau publication. Cooper Initial Report ¶ 38.

32.   Mr. Cooper employed two methods to determine block-level estimates of the Latino Citizen Voting Age Population ("LCVAP") of each demonstration district. Method 1 allocates the Hispanic and non-Hispanic citizen voting age population to the block level based on the complete count block-level voting age Hispanic and non-Hispanic population, according to the 2010 Census. Method 2 allocates just the Hispanic citizen voting age population to the block level and imputes the value of the non-Hispanic citizen voting age population at the block level. Method 1 is Mr. Cooper's preferred method; Method 2 is preferred by Defendants' expert, Dr. Peter Morrison. *See* Cooper Initial Report ¶ 38; First Supplemental Cooper Report ¶¶ 8-11; Deposition of Peter Morrison at 83:10-84:14 (May 9, 2013) (Khanna Decl., Ex. 7 and hereinafter cited as "Morrison Dep.").

33.   Mr. Cooper also used the *Maptitude* software to geocode the list of registered voters provided by the Yakima County Elections Division.

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Geocoding is a technical process available in GIS software that locates voters by street number and address and converts those locations to points on a computer map. Mr. Cooper tallied the points to calculate the number of registered voters and Latino registered voters (i.e., registered voters with Spanish surnames) by district. *See* Cooper Initial Report ¶ 37; First Supplemental Cooper Report ¶ 41.

34.   The Spanish surname registered voter list on which Mr. Cooper based his calculations of the number of Latino registered voters by district did not include a number of voters with non-Spanish surnames that the Yakima County Elections Division has classified as Latino. First Supplemental Cooper Report ¶ 41 n.7; *see also* Cooper Initial Report ¶¶ 36, 40-42.

35.   The ideal district population for a seven-single-member district plan is 13,030 (91,208/7). Cooper Initial Report ¶ 55.

Illustrative Plan 1

36.   Plaintiffs' Illustrative Plan 1 is comprised of seven single-member districts. Second Supplemental Cooper Report at Ex. A-1.

37.   District 1 in Illustrative Plan 1 has an LCVAP of 54.51% under Method 1 and 52.52% under Method 2. Based on the surname match to the March 2014 Yakima County Election Division data, Latinos comprise 52.78% of the total registered voters in the district. Second Supplemental Cooper Report ¶¶ 10-13, figs. 2-3, Ex. A-1.

38.   District 2 in Plaintiffs' Illustrative Plan 1 has an LCVAP below 50% under either method, but based on the surname match to the March 2014

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Yakima County Election Division data, Latinos comprise 53.35% of the total registered voters in the district. Second Supplemental Cooper Report, Ex. A-1.

39.   All of the districts in Illustrative Plan 1 are contiguous. Cooper Initial Report ¶ 56 & fig.10.

40.   District 1 in Illustrative Plan 1 encompasses a land area of 2.39 square miles and District 2 covers 3.58 square miles. District 4 has a land area of 2.45 square miles. The remaining districts range in geographic size from 4.19 square miles (District 6) to 5.71 square miles (District 7).   *Id.* ¶ 51.

41.   The districts in Illustrative Plan 1 are visually compact. *Id.* at fig.10.

42.   The Reock test for compactness is an area-based measure that compares each district to a circle based on a range between 0 and 1, with 1 being the most compact. District 1 has a Reock compactness score of 0.38, and District 2 has a Reock compactness score of 0.44. The five remaining districts in Illustrative Plan 1 have Reock scores ranging between 0.25 and 0.44. The districts in Illustrative Plan 1 have a mean Reock score of 0.38. Second Supplemental Cooper Report ¶ 15, n.7, & fig.4.

43.   Illustrative Plan 1 has an overall population deviation from the ideal district size of 6.33%. Cooper Initial Report ¶ 55, Fig. 9.

44.   All of the districts in Illustrative Plan 1 are made up of whole Census blocks, which are generally bounded on all sides by visible features such as streets, rivers, and railroad tracks. *Id.* ¶ 32.

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45.   Illustrative Plan 1 generally follows primary road and precinct lines. Deposition of William S. Cooper at 78:9-79:4 (May 8, 2013) (Khanna Decl., Ex. 8 and hereinafter cited as "Cooper Dep.").

46.   Under Illustrative Plan 1, five out of seven incumbent City Councilmembers are the sole incumbents in their districts. Second Supplemental Cooper Report ¶ 20 & Ex. B.

Illustrative Plan 2

47.   Plaintiffs' Illustrative Plan 2 is comprised of seven single-member districts. Second Supplemental Cooper Report at Ex. A-2.

48.   District 1 in Illustrative Plan 2 has an LCVAP of 54.70% under Method 1 and 52.67% under Method 2. Based on the surname match to the March 2014 Yakima County Election Division data, Latinos comprise 52.76% of the total registered voters in the district. *Id.* ¶¶ 10-13, figs. 2-3, & Ex. A-2.

49.   District 2 in Plaintiffs' Illustrative Plan 2 has an LCVAP below 50% under either method, but based on the surname match to the March 2014 Yakima County Election Division data, Latinos comprise 52.93% of the total registered voters in the district. *Id.*, Ex. A-2.

50.   All of the districts in Illustrative Plan 2 are contiguous. Cooper Initial Report ¶ 56 & fig.12.

51.   District 1 in Illustrative Plan 2 encompasses a land area of 2.60 square miles and District 2 covers 3.52 square miles. District 4 has a land area of 2.15 square miles. The remaining districts range in geographic size from 4.06 square miles (District 6) to 5.71 square miles (District 7). *Id.* ¶ 54.

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52.   The districts in Illustrative Plan 2 are visually compact. *Id.* at fig.12.

53.   District 1 has a Reock compactness score of 0.42, and District 2 has a Reock compactness score of 0.43. The five remaining districts in Illustrative Plan 2 have Reock scores ranging between 0.25 and 0.44. The districts in Illustrative Plan 2 have a mean Reock score of 0.38. Second Supplemental Cooper Report ¶ 15 & fig.4.

54.   Illustrative Plan 2 has an overall population deviation from the ideal district size of 5.44%. Cooper Initial Report ¶ 55 & fig.11.

55.   All of the districts in Illustrative Plan 2 are made up of whole Census blocks, which are generally bounded on all sides by visible features such as streets, rivers, and railroad tracks. *Id.* ¶ 32.

56.   Illustrative Plan 2 generally follows primary road and precinct lines. Cooper Dep. at 78:9-79:4.

57.   Under Illustrative Plan 2, five out of seven incumbent City Councilmembers are the sole incumbents in their districts. Second Supplemental Cooper Report ¶ 20 & Ex. B.

Hypothetical Plan A

58.   Plaintiffs' Hypothetical Plan A is comprised of seven single-member districts. Second Supplemental Cooper Report at Ex. A-3.

59.   District 1 in Hypothetical Plan A has an LCVAP of 55.53% under Method 1 and 53.27% under Method 2. Based on the surname match to the March 2014 Yakima County Election Division data, Latinos comprise 55.51% of the total registered voters in the district. *Id.* ¶¶ 10-13, figs. 2-3, & Ex. A-3.

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60.   District 2 in Hypothetical Plan A has an LCVAP below 50% under either method, but based on the surname match to the March 2014 Yakima County Election Division data, Latinos comprise 52.39% of the total registered voters in the district. *Id.*, Ex. A-3.

61.   All of the districts in Hypothetical Plan A are contiguous. First Supplemental Cooper Report ¶ 32 & fig.8.

62.   District 1 in Hypothetical Plan A encompasses a land area of 1.93 square miles and District 2 covers 3.87 square miles. District 4 has a land area of 2.29 square miles. The remaining districts range in geographic size from 4.19 square miles (District 6) to 5.71 square miles (District 7). *Id.* ¶ 30.

63.   The districts in Hypothetical Plan A are visually compact. *Id.* at fig.8.

64.   District 1 has a Reock compactness score of 0.39, and District 2 has a Reock compactness score of 0.37. The five remaining districts in Hypothetical Plan A have Reock scores ranging between 0.25 and 0.44. The districts in Hypothetical Plan A have a mean Reock score of 0.37. Second Supplemental Cooper Report ¶ 15 & fig.4.

65.   Hypothetical Plan A has an overall population deviation from the ideal district size of 9.55%. First Supplemental Cooper Report ¶ 31.

66.   All of the districts in Hypothetical Plan A are made up of whole Census blocks, which are generally bounded on all sides by visible features such as streets, rivers, and railroad tracks. *See* Cooper Initial Report ¶ 32.

67.   Hypothetical Plan A generally follows primary road and precinct lines. Cooper Dep. at 78:9-79:4.

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68.   Under Hypothetical Plan A, five out of seven incumbent City Councilmembers are the sole incumbents in their districts. Second Supplemental Cooper Report ¶ 20 & Ex. B.

Hypothetical Plan B

69.   Plaintiffs' Hypothetical Plan B is comprised of seven single-member districts. Second Supplemental Cooper Report at Ex. A-4.

70.   District 1 in Hypothetical Plan B has an LCVAP of 59.30% under Method 1 and 56.31% under Method 2. Based on the surname match to the March 2014 Yakima County Election Division data, Latinos comprise 56.33% of the total registered voters in the district. Second Supplemental Cooper Report ¶¶ 10-13, figs. 2-3, & Ex. A-4.

71.   All of the districts in Hypothetical Plan B are contiguous. First Supplemental Cooper Report at fig.12.

72.   The districts in Hypothetical Plan B are visually compact. *Id.*

73.   District 1 has a Reock compactness score of 0.28. The six remaining districts in Hypothetical Plan B have Reock scores ranging between 0.24 and 0.53. The districts in Hypothetical Plan B have a mean Reock score of 0.36. Second Supplemental Cooper Report ¶ 15 & fig.4.

74.   Hypothetical Plan B has an overall population deviation from the ideal district size of 5.99%. First Supplemental Cooper Report ¶ 52.

75.   All of the districts in Hypothetical Plan B are made up of whole Census blocks, which are generally bounded on all sides by visible features such as streets, rivers, and railroad tracks. *See* Cooper Initial Report ¶ 32.

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76.   Hypothetical Plan B generally follows primary road and precinct lines. Cooper Dep. at 78:9-79:4.

77.   Under Hypothetical Plan B, five out of seven incumbent City Councilmembers are the sole incumbents in their districts. Second Supplemental Cooper Report ¶ 20 & Ex. B.

Hypothetical Plan C

78.   Plaintiffs' Hypothetical Plan C is comprised of seven single-member districts. First Supplemental Cooper Report ¶ 57 & figs.13-14.

79.   District 1 in Hypothetical Plan C has an LCVAP of 60.91% under Method 1 and 57.48% under Method 2. Based on the surname match to the March 2014 Yakima County Election Division data, Latinos comprise 60.77% of the total registered voters in the district. Second Supplemental Cooper Report ¶¶ 10-13, figs. 2-3, & Ex. A-5.

80.   All of the districts in Hypothetical Plan C are contiguous. First Supplemental Cooper Report at fig.14.

81.   The districts in Hypothetical Plan C are visually compact. *Id.*

82.   District 1 has a Reock compactness score of 0.23. The six remaining districts in Hypothetical Plan C have Reock scores ranging between 0.24 and 0.53. The districts in Hypothetical Plan C have a mean Reock score of 0.36. Second Supplemental Cooper Report ¶ 15 & fig.4.

83.   Hypothetical Plan C has an overall population deviation from the ideal district size of 7.90%. *Id.*, Ex. A-5.

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84.   All of the districts in Hypothetical Plan C are made up of whole Census blocks, which are generally bounded on all sides by visible features such as streets, rivers, and railroad tracks. *See* Cooper Initial Report ¶ 32.

85.   Hypothetical Plan C generally follows primary road and precinct lines. Cooper Dep. at 78:9-79:4.

86.   Under Hypothetical Plan C, five out of seven incumbent City Councilmembers are the sole incumbents in their districts. Second Supplemental Cooper Report ¶ 20 & Ex. B.

2011 Yakima City Council Plan

87.   For purposes of comparison, Mr. Cooper also provided data regarding the current Yakima City Council Plan, which is divided into four residency districts. *See supra* ¶ 5.

88.   Under Method 1, and based on the *2007-2011 ACS 5-Year Estimates,* the current Yakima City Council district with the highest LCVAP is Residency District 3, with an LCVAP of 40.17%. Residency District 3 also has the highest percentage of Latino registered voters, at 42.78%, based on the surname match to the January 2013 Yakima County Election Division data. Residency District 3, like District 1 in all of Plaintiffs' demonstrative plans, is anchored in east Yakima. Cooper Initial Report at figs. 7-8.

89.   All of the districts in the current Yakima City Council Plan are contiguous. Cooper Initial Report at fig.8.

90.   Based on an ideal district population of 22,804 for a four-district plan (91,208/4), the current Yakima City Council Plan has an overall population deviation of 11.08%. *Id.* ¶ 45, fig.7, & Ex. B.

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91.   Residency District 3 has a Reock compactness score of 0.37. The three remaining districts in the current Yakima City Council Plan have Reock scores ranging between 0.44 and 0.51. The districts in the current Yakima City Council Plan have a mean Reock score of 0.45. Second Supplemental Cooper Report ¶¶ 14-16 & fig.4.

Comparable District Plans in Washington

92.   The mean Reock score for the 49 districts in the Washington State Legislature districting plan is 0.42. Over one-fourth (26.5%) of the districts in the Washington State Legislature districting plan score below 0.37. Seven of the 49 legislative districts score below 0.30, with a minimum score of 0.20. Second Supplemental Cooper Report ¶ 18 & n.8.

93.   The ten districts in Washington's Congressional District plan have a mean Reock score of 0.38, and three of those districts score below 0.30. *Id.* ¶ 18 & n.8.

94.   The mean Reock score for the 5-district plan in the City of Pasco is 0.35, with a minimum of 0.23. *Id.* ¶ 19 & n.9.

95.   The mean Reock score for the 3-district plan in the City of Spokane is 0.35, with a minimum of 0.26. *Id.* ¶ 19 & n.9.

96.   The mean Reock score for the 5-district plan in the City of Tacoma is 0.51, with a minimum of 0.40. *Id.* ¶ 19 & n.9.

Defendants' Experts' Concessions

97.   Defendants' expert Dr. Morrison has relied on ACS data in determining the citizen voting age population in a given district. Morrison Dep. at 74:18-21.

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98.   Dr. Morrison concedes that, based on the ACS 5-Year Estimates, "the odds are in the vicinity of 56 [to] 44" that a demonstrative district with an LCVAP estimate as low as 50.13% using Method 2 is actually a majority-Hispanic district. *See* Morrison Dep. at 141:24-142:13, 143:24-145:1. Dr. Morrison explained that these odds are "sort of in the range of likelier than not but not beyond a reasonable doubt." *Id.* at 142:14-16.

99.   Dr. Morrison concedes that, based on the ACS 5-Year Estimates, the odds are "better than 56 to 44" that a demonstrative district with an LCVAP estimate as low as 52.17% using the proper method is actually a majority-Hispanic district. Morrison Dep. at 145:6-12.

100.   Dr. Morrison concedes that, based on the ACS 5-Year Estimates, "one has much stronger confidence of a majority" when a demonstrative district has an LCVAP estimate of 56.12% using Method 2 "before you start to account for errors in the data. Based purely on sampling error, . . . 56.12 . . . would leave not much doubt in my mind that there was a majority." Morrison Dep. at 146:15-20.

101.   Defendants have provided no rebuttal report from Dr. Morrison or any other evidence disputing the LCVAP estimates in Mr. Cooper's Second Supplemental Report based on the updated *2008-2012 ACS 5-Year Estimates*.

102.   Dr. Morrison concedes that the methodology described above for determining the number of Latino registered voters by district, *see supra* ¶¶ 24-25, 33-34, is accurate. Morrison Dep. at 115:21-116:19, 158:2-17.

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103. Dr. Morrison concedes that it is possible to create at least two districts in the City of Yakima in which Latinos comprise a majority of registered voters. Morrison Dep. at 158:2-17.

104. Defendants' expert John Alford testified that "a registered voter majority is probably a better indicator of having a majority district than is the CVAP number." Alford Dep. at 52:19-21.

105. Dr. Morrison concedes that the Latino population in Yakima "certainly is geographically compact, no question about it." Morrison Dep. at 48:20-21.

106. Dr. Morrison concedes that he does not dispute compactness or contiguity with respect to Illustrative Plans 1 and 2. Morrison Dep. at 51:6-16, 60:5-14, 64:3-7.

IV.   ELECTIONS ANALYSES

107. Plaintiffs' expert Dr. Engstrom has done extensive research into the relationship between election systems and the ability of minority voters to participate fully in the political process and to elect representatives of their choice. He has published numerous articles on the subject and has testified as an expert witness in numerous cases in federal and state court on the subject. Engstrom Report ¶¶ 1-3.

108. Defendants' expert Dr. John Alford has worked with numerous local governments on districting plans and on Voting Rights Act issues. He has testified as an expert witness on voting rights and statistical issues in a variety of court cases. Report of John Alford, Ph.D. at 1 (Mar. 22, 2013) (Khanna Decl., Ex. 9 and hereinafter cited as "Alford Report").

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109.   Dr. Engstrom and Dr. Alford analyzed the extent to which the candidate preferences of Latino and other voters in Yakima have differed in recent elections in which voters have been presented with a choice between or among Latino and non-Latino candidates. Engstrom Report ¶4; Alford Report at 2.

110.   Dr. Engstrom and Dr. Alford originally analyzed six elections between 2009 and 2012 involving Latino candidates, including three primaries and two general elections for Yakima City Council held in 2009 and 2011 and the 2012 primary election for Position 8 on the Washington Supreme Court. Dr. Engstrom and Dr. Alford also analyzed voter preferences on City of Yakima Proposition 1 in the primary election of 2011, which would have required a change in the city council election system from at-large to district-based elections. Engstrom Report ¶¶ 4-5; Alford Report at 10 & tbl.1.

111.   Dr. Engstrom employed a statistical method called Ecological Inference ("EI") to derive his estimates of the extent to which the candidate preferences of Latino voters differed from those of non-Latino voters in the elections analyzed. His report provides a specific point estimate of each group's support for a particular candidate or proposition, which is the "best estimate," in that it is "the value most likely to be the true value," as well as a corresponding confidence interval, which identifies the range of estimates within which we can be 95 percent confident, statistically, that the true value of a group's support for a candidate falls. Estimates within the range of a confidence interval are less likely to be the true value the further they are from the point estimate. Engstrom Report ¶ 14.

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112.   Dr. Alford also employed EI, along with two other techniques called Ecological Regression and Homogeneous Precinct Analysis. EI is an improvement on standard ecological regression. Alford Dep. at 100:15-101:9. "[T]he results from each of the three analytical methods are substantively very similar." Alford Report at 7.

113.   Dr. Alford has emphasized that voter turnout among Latinos in Yakima is significantly lower than non-Latino turnout. Alford Report at 4.

114.   Dr. Alford has no dispute with the actual estimates derived from Dr. Engstrom's analysis, and is willing to testify based on Dr. Engstrom's point estimates and confidence intervals. Alford Dep. at 23:18-20, 103:8-11, 134:5-135:10, 145:17-146:6, 179:2-25.

Position 5, 2009 Primary

115.   Three candidates competed for the Position 5 seat on the Yakima City Council in the 2009 election: Sonia Rodriguez (a Latina and the incumbent who had been appointed to that position), Sharon Madson, and Dave Ettl, both non-Latinos. Engstrom Report ¶ 17.

116.   Because there were more than two candidates, a top-two primary was held. Engstrom Report ¶ 17; *see also supra* ¶ 3.

117.   Mr. Ettl and Ms. Rodriguez advanced to the general election, having received 47.5% and 38.2% of the overall votes respectively. Engstrom Report ¶ 17.

118.   Ms. Rodriguez was the candidate of choice of Latino voters. Based on Dr. Engstrom's EI analysis, Ms. Rodriguez received an estimated

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52.9% of the Latino votes. Engstrom Report ¶ 18 & tbl.1; Alford Report at tbl.1; Alford Dep. at 115:14-20.

119.   Ms. Rodriguez was not the candidate of choice of non-Latino voters. Based on Dr. Engstrom's EI analysis, she received an estimated 37.3% of the non-Latino votes. The confidence interval for this point estimate ranges from 34.0% to 41.3%. Engstrom Report ¶ 18 & tbl.1; Alford Report at tbl.1; Alford Dep. at 115:21-23.

Position 5, 2009 General

120.   After winning the top-two primary, Mr. Ettl and Ms. Rodriguez competed in the general election. Engstrom Report ¶¶ 17, 19.

121.   Ms. Rodriguez was the candidate of choice of Latino voters. Based on Dr. Engstrom's EI analysis, Ms. Rodriguez received an estimated 92.8% of the Latino votes. The confidence interval for this point estimate ranges from 72.2% to 99.2%. Engstrom Report ¶ 19 & tbl.1; Alford Report at tbl.1; Alford Dep. at 115:14-20.

122.   Ms. Rodriguez was not the candidate of choice of non-Latino voters. Based on Dr. Engstrom's EI analysis, she received an estimated 42.6% of the non-Latino votes. The confidence interval for this point estimate ranges from 38.0% to 46.9%. Engstrom Report ¶ 19 & tbl.1; Alford Report at tbl.1; Alford Dep. at 115:21-23.

123.   Ms. Rodriguez was defeated. Engstrom Report ¶ 19; Alford Dep. at 115:24-25.

Position 7, 2009 Primary

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124.   Four candidates competed for the Position 7 seat on the Yakima City Council in the 2009 election: one Latino (Benjamin A. Soria), and three non-Latinos (Mitchell Smith, Bill Lover, and T.J. Davis). Engstrom Report ¶ 20.

125.   Because there were more than two candidates, a top-two primary was held. Engstrom Report ¶ 20; *see also supra* ¶ 3.

126.   Mr. Lover and Mr. Soria finished advanced to the general election, having received 54.4% and 31.8% of the overall votes respectively. Engstrom Report ¶ 21.

127.   Mr. Soria was the candidate of choice of Latino voters. Based on Dr. Engstrom's EI analysis, Mr. Soria received an estimated 59.5% of the Latino votes. Engstrom Report ¶ 21 & tbl.1; Alford Report at tbl.1; Alford Dep. at 116:1-5.

128.   Mr. Soria was not the candidate of choice of non-Latino voters. Based on Dr. Engstrom's EI analysis, he received an estimated 31.0% of non-Latino votes in Yakima. The confidence interval for this point estimate ranges from 27.8% to 35.1%. Engstrom Report ¶ 21 & tbl.1; Alford Report at tbl.1; Alford Dep. at 116:6-7.

Position 7, 2009 General

129.   After winning the top-two primary, Mr. Lover and Mr. Soria competed in the general election. Engstrom Report ¶ 21-22.

130.   Mr. Soria was the candidate of choice of Latino voters. Based on Dr. Engstrom's EI analysis, Mr. Soria received an estimated 92.7% of the Latino votes. The confidence interval for this point estimate ranges from 74.1%

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to 98.4%. Engstrom Report ¶ 22 & tbl.1; Alford Report at tbl.1; Alford Dep. at 116:1-5.

131.   Mr. Soria was not the candidate of choice of non-Latino voters. Based on Dr. Engstrom's EI analysis, Mr. Soria received an estimated 30.5% of the non-Latino votes. The confidence interval for this point estimate ranges from 27.6% to 32.8%. Engstrom Report ¶ 22 & tbl.1; Alford Report at tbl.1; Alford Dep. at 116:6-7.

132.   Mr. Soria was defeated. Engstrom Report ¶ 19; Alford Dep. at 116:8-9.

District 2, 2011 Primary

133.   Three candidates competed for the District 2 seat on the Yakima City Council in the 2009 election: one Latino (Rogelio Montes), and two non-Latinos (Rich Marcley and Sara Bristol). Engstrom Report ¶ 24.

134.   Because there were more than two candidates, a top-two primary was held. Engstrom Report ¶ 24; *see also supra* ¶ 3.

135.   Mr. Montes was the candidate of choice of Latino voters. Based on Dr. Engstrom's EI analysis, Mr. Soria received an estimated 53.5% of the Latino votes. Engstrom Report ¶ 25 & tbl.1; Alford Report at tbl.1; Alford Dep. at 117:3-5.

136.   Mr. Montes was not the candidate of choice of non-Latino voters. Based on Dr. Engstrom's EI analysis, he received an estimated 13.4% of non-Latino votes in Yakima. The confidence interval for this point estimate ranges from 10.5% to 16.7%. Engstrom Report ¶ 25 & tbl.1; Alford Report at tbl.1; Alford Dep. at 117:6-7.

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137.   Mr. Montes was defeated. Engstrom Report ¶ 25; Alford Dep. at 117:10-11.

Proposition 1, 2011 Primary

138.   Proposition 1 was a proposal to amend the city charter of Yakima to change the City Council election system to seven single-member districts. Engstrom Report ¶ 26; Alford Dep. at 118:22-25.

139.   Latino voters strongly supported this proposition. Based on Dr. Engstrom's EI analysis, an estimated 98.2% of Latino voters voted for Proposition 1. The confidence interval for this point estimate ranges from 95.9% to 99.2%. Engstrom Report ¶ 26 & tbl.1; Alford Report at tbl.1; Alford Dep. at 118:15-17.

140.   Non-Latino voters did not support Proposition 1. Based on Dr. Engstrom's EI analysis, an estimated 38.4% of non-Latinos voters voted for Proposition 1. The confidence interval for this point estimate ranges from 36.4% to 40.3%. Engstrom Report ¶ 26 & tbl.1; Alford Report at tbl.1; Alford Dep. at 118:18-19.

141.   Proposition 1 was defeated by a vote of 58.5% to 41.5%. Engstrom Report ¶ 26; Alford Dep. at 118:20-21.

Supreme Court Position 8, 2012 Primary

142.   In 2012, the State of Washington held a non-partisan primary election for Position 8 on the Washington Supreme Court involving two candidates: one Latino (Steve Gonzales, who was serving in this seat by appointment) and one non-Latino (Bruce O. Danielson). Neither candidate was

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a resident of Yakima, nor even of an area close to Yakima. Engstrom Report ¶ 27.

143.   Mr. Gonzales was the candidate of choice of Latino voters in Yakima. Based on Dr. Engstrom's EI analysis, Mr. Gonzales received an estimated 63.2% of the Latino votes in Yakima. Engstrom Report ¶ 28 & tbl.1; Alford Report at tbl.1; Alford Dep. at 119:6-14.

144.   Mr. Gonzales was not the candidate of choice of non-Latino voters in Yakima. Based on Dr. Engstrom's EI analysis, Mr. Gonzales received an estimated 36.9% of the non-Latino votes in Yakima. The confidence interval for this point estimate ranges from 33.8% to 40%. Engstrom Report ¶ 28 & tbl.1; Alford Report at tbl.1; Alford Dep. at 119:23-25.

145.   Although Mr. Gonzales retained the seat in the statewide vote, he was defeated in Yakima, winning only 39.0% of the vote in the city. Engstrom Report ¶ 28; Alford Dep. at 120:1-4.

Position 5, 2013 Primary

146.   After the 2013 primary and general elections were held in the City of Yakima, both Dr. Engstrom and Dr. Alford supplemented their analyses to include three more elections: two primaries for Yakima City Council and the 2013 general election for Position 1 on the Yakima School Board. Supplemental Report of Richard L. Engstrom, Ph.D. ¶¶ 2-3 (Dec. 17, 2013) (Khanna Decl., Ex. 10 and hereinafter cited as "Supplemental Engstrom Report"); Supplemental Report of John Alford, Ph.D. at 1-2 (Jan. 17, 2014) (Khanna Decl., Ex. 11 and hereinafter cited as "Supplemental Alford Report").

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147.   Both Dr. Engstrom and Dr. Alford employed EI to derive their estimates of the extent to which the candidate preferences of Latino voters differed from those of non-Latino voters in the elections analyzed. The results of their respective EI analyses are substantively very similar. Supplemental Alford Report at 3.

148.   Three candidates competed for the Position 5 seat on the Yakima City Council in the 2013 election: one Latino (Isidro Reynaga), and two non-Latinos (Charles Noel and Dave Ettl). Supplemental Engstrom Report ¶ 5.

149.   Because there were more than two candidates, a top-two primary was held. Supplemental Engstrom Report ¶ 5; *see also supra* ¶ 3.

150.   Mr. Reynaga was the candidate of choice of Latino voters. Based on Dr. Engstrom's EI analysis, Mr. Reynaga received an estimated 67.4% of the Latino votes. Supplemental Engstrom Report ¶ 5 & tbl.S1.

151.   Mr. Reynaga was not the candidate of choice of non-Latino voters. Based on Dr. Engstrom's EI analysis, he received an estimated 15.3% of non-Latino votes in Yakima. The confidence interval for this point estimate ranges from 13.5% to 17.5%. Supplemental Engstrom Report ¶ 5 & tbl.S1.

152.   Mr. Reynaga was defeated and did not advance to the general election. Engstrom Report ¶ 5.

Position 7, 2013 Primary

153.   Three candidates competed for the Position 7 seat on the Yakima City Council in the 2013 election: one Latino (Enrique Jevons), and two non-Latinos (Carol Folsom-Hill and Bill Lover). Supplemental Engstrom Report ¶ 6.

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154.   The leading vote recipient among Latino voters was Ms. Folsom Hill. Based on Dr. Engstrom's EI analysis, she received an estimated 49.7% of the Latino votes. Ms. Folsom Hill received an estimated 34.2% of non-Latino votes; the confidence interval around this point estimate ranges from 32.0% to 36.5%. Supplemental Engstrom Report ¶ 6.

155.   Mr. Jevons finished second among Latino voters. Based on Dr. Engstrom's EI analysis, he received an estimated 39.2% of Latino votes. Mr. Jevons received an estimated 11.4% of non-Latino votes; the confidence interval around this point estimate ranges from 9.8% to 13.1%. Supplemental Engstrom Report ¶ 6 & tbl.S1.

156.   Mr. Jevons was defeated and did not advance to the general election. Engstrom Report ¶ 6.

Yakima School Board , 2013 General

157.   In November 2013, voters in the Yakima School District, which includes some but not all of the City of Yakima, were presented with a choice between a Latino candidate (Graciela Villanueva) and non-Latino candidate (Jeni Rice) for Position 1 on the Yakima School Board . Ms. Villanueva was the incumbent who had been appointed to that position. Supplemental Engstrom Report ¶ 9.

158.   Ms. Villanueva was the candidate of choice of Latino voters. Based on Dr. Alford's EI analysis, Ms. Villanueva received an estimated 70.1% of the Latino votes. The confidence interval for this point estimate ranges from 60.8% to 78.8%. Supplemental Alford Report at 1 & tbl.1; Alford Dep. at 171:10-16.

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159.   Dr. Alford characterized these results as indicating "real, if modest, Hispanic cohesion," and testified that "modest" cohesion is equivalent to "moderate" cohesion. Supplemental Alford Report at 1; Alford Dep. at 172:3-14.

160.   Ms. Villanueva was not the candidate of choice of non-Latino voters. Based on Dr. Alford's EI analysis, she received an estimated 35.2% of the non-Latino votes. The confidence interval for this point estimate ranges from 33.7% to 36.7%. Supplemental Alford Report at 1 & tbl.1; Alford Dep. at 172:15-17.

161.   Ms. Villanueva was defeated. Supplemental Engstrom Report ¶ 9; Alford Dep. at 172:18-19.

Summary of Voting Patterns

162.   In nine out of ten elections analyzed, the estimate of the Latino vote for the Latino candidate (or for Proposition 1) is above a majority. *See* Alford Dep. at 113:22-114:3.

163.   In each of the ten elections analyzed, not a single estimate of the non-Latino crossover vote for the Latino candidate (or for Proposition 1) exceeds 50%. *See* Alford Dep. at 114:17-20.

164.   Based on the EI analyses performed, none of the confidence intervals around the non-Latino crossover vote for the Latino candidate (or for Proposition 1) exceeds 50%. *See* Alford Dep. at 114:21-115:13.

V.   TOTALITY OF THE CIRCUMSTANCES

165.   No Latino has ever been elected to the Yakima City Council. Defendants' Answers and Objections to Plaintiffs' First Requests for

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Admission to Defendants at 4 (Dec. 17, 2012) (Khanna Decl., Ex. 12 and hereinafter cited as "Defs.' Admission").

166.   Only one Latino, Sonia Rodriguez, has ever been appointed to the Yakima City Council. Ms. Rodriguez lost her first contested election, to a Caucasian challenger. Defs.' Admission at 5-6.

167.   On June 15, 1967, the Attorney General for the State of Washington issued an Opinion regarding the administration of literacy tests as a prerequisite for voting, in which he stated that Washington's discretionary approach to literacy tests conflicts with Section 101(a) of the Voting Rights Act and directed that "[u]ntil Washington provides for the administration of literacy tests on a uniform basis in conformity with federal law, no person may be required to take a literacy test." Op. Att'y Gen. of Washington (June 15, 1967) (Khanna Decl., Ex. 13 at 387).

168.   On September 11, 1968, Mexican-American citizens filed suit against the Yakima County Auditor under the Voting Rights Act challenging the Auditor's county-wide practice of administering literacy tests to Latinos prior to registering them to vote. Complaint, *Mexican-American Federation v. Naff*, No. 68-cv-2457 (Sep. 11, 1968) (Khanna Decl., Ex. 14).

169.   The three-judge federal court panel ruled against the plaintiffs and dismissed the case. Opinion of the Court, *Mexican-American Federation v. Naff*, No. 68-cv-2457 (May 2, 1969) (Khanna Decl., Ex. 15).

170.   That opinion was vacated on appeal to the U.S. Supreme Court and remanded for further consideration in light of *Oregon v. Mitchell*, 400 U.S. 112 (1970), which upheld Congress's ban on all literacy tests as a prerequisite

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to voting. The three-judge federal court panel vacated its earlier ruling, declared that Washington constitutional and statutory authority "requiring that voters be able to read and speak the English language are in conflict with the Voting Rights Act of 1965," and ordered Defendants to register otherwise qualified applicants to vote without requiring them to pass a literacy test. Order Vacating Judgment, *Mexican-American Federation v. Naff*, No. 68-cv-2457, at 3-4 (Sep. 27, 1971) (Khanna Decl., Ex. 16).

171. On July 6, 2004, DOJ filed suit against Yakima County in the Eastern District of Washington under Section 203 of the Voting Rights Act, claiming that County officials "have not provided effective election-related materials, information, and/or assistance in Spanish to limited English proficient Latino citizens as required by Section 2013." Complaint, *United States v. Yakima County*, No. 04-cv-3072, ¶ 9 (July 6, 2004) (Khanna Decl., Ex. 17).

172. DOJ and Yakima County subsequently entered into a Consent Decree in which the County agreed, *inter alia*, to provide Spanish-language access to elections. Consent Decree, *United States v. Yakima County*, No. 04-cv-3072 (Sep. 3, 2004) (Khanna Decl., Ex. 18).

173. Based on the *2010-2012 ACS 3-Year Estimates*, 55.3% of Latinos ages 25 and older in Yakima have less than a high school diploma, compared to 12.4% of non-Hispanic whites. Second Supplemental Cooper Report, Ex. C (Khanna Decl., Ex. 18 at 166).

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174.   Based on the *2010-2012 ACS 3-Year Estimates*, 17.4% of Latinos ages 25 and older in Yakima have some college or associate's degree, compared to 35.1% of non-Hispanic whites. *Id.*

175.   Based on the *2010-2012 ACS 3-Year Estimates*, 3.9% of Latinos ages 25 and older in Yakima have a Bachelor's degree or higher, compared to 25.1% of non-Hispanic whites of the same age. *Id.*

176.   Based on the *2010-2012 ACS 3-Year Estimates*, 30.2% of Latino family households in Yakima have income below poverty level, compared to 9.9% of non-Hispanic white family households. *Id.* (Khanna Decl., Ex. 18 at 170).

177.   Based on the *2010-2012 ACS 3-Year Estimates*, the median family income for Latinos in Yakima is $29,846, compared to $65,636 for non-Hispanic white families. *Id.* (Khanna Decl., Ex. 18 at 181).

178.   Based on the *2010-2012 ACS 3-Year Estimates*, the per capita income for Latinos in Yakima is $10,593, compared to $29,586 for non-Hispanic whites. *Id.* (Khanna Decl., Ex. 18 at 185).

179.   Based on the *2010-2012 ACS 3-Year Estimates*, 37.7% of Latinos in Yakima live in owner-occupied homes, compared to 63.7% of non-Hispanic whites. *Id.* (Khanna Decl., Ex. 18 at 202).

180.   Based on the *2010-2012 ACS 3-Year Estimates*, 57.2% of Latinos in Yakima ages 18 to 64 have no health insurance, compared to 17.9% of non-Hispanic whites of the same age. *Id.* (Khanna Decl., Ex. 18 at 208).

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181.   Based on Equal Employment Opportunity (EEO-4) data provided by the City of Yakima, in 2005, 81 out of 653 (12.4%) full-time city employees were Hispanic. Khanna Decl., Ex. 19 at COY 004179.

182.   Based on EEO-4 data provided by the City of Yakima, in 2007, 86 out of 647 (13.3%) full-time city employees were Hispanic. Khanna Decl., Ex. 19 at COY 004214.

183.   Based on EEO-4 data provided by the City of Yakima, in 2009, 97 out of 683 (14.2%) full-time city employees were Hispanic. Khanna Decl., Ex. 19 at COY 06868.

184.   On August 5, 2009, the Yakima Herald-Republic published an article entitled "Rodriguez - Yakima council candidate" authored by Chris Bristol. (Khanna Decl., Ex. 20).

185.   On November 6, 2009, the Yakima Herald-Republic published an article entitled "Yakima council race raises question of whether candidate was too liberal or too Latino," authored by Chris Bristol. (Khanna Decl., Ex. 21).

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CERTIFICATE OF SERVICE

I hereby certify that on July 1, 2014, I electronically filed the foregoing

with the Clerk of the Court using the CM/ECF system, which will send

notification of such filing to the email addresses indicated on the Court's

Electronic Mail Notice List.

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STATEMENT OF UNDISPUTED MATERIAL
FACTS IN SUPPORT OF PLAINTIFFS'
MOTION FOR SUMMARY JUDGMENT – 36
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