

# **EXHIBIT 1**

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF WASHINGTON

ROGELIO MONTES and MATEO ARTEAGA, PLAINTIFFS

v.

CIVIL ACTION NO. 12-cv-3108-TOR

CITY OF YAKIMA, WASHINGTON, *et al.*

DEFENDANTS

**FOURTH SUPPLEMENTAL DECLARATION OF WILLIAM S. COOPER**

WILLIAM S. COOPER, acting in accordance with 28 U.S.C. §1746 and Rules 702 and 703 of the Federal Rules of Evidence, does hereby declare and say:

1. My name is William S. Cooper. I serve as a demographic and redistricting expert for the Plaintiffs. I submitted a Declaration in this case on February 1, 2013 and Supplemental Declarations on April 19, 2013, April 25, 2014, and October 1, 2014.

2. I have prepared this supplemental declaration to respond to a number of misleading statements made by Dr. Morrison in his October 3, 2014 declaration. My comments are restricted to selected paragraphs that relate to my area of expertise – redistricting and demographics.

**Morrison Paragraph 2**

3. Table 1 in Dr. Morrison’s Declaration contains a column labeled “Hispanic Share of CVAP”, with LCVAP (or HCVAP) calculations for Districts 1

and 5 under the Defendants' Plan and Districts 1 and 2 under the Plaintiffs' Plan.<sup>1</sup>

In my opinion, Plaintiffs' District 2 should not be lumped into the same "influence" category with Defendants' District 5 in Table 1. Plaintiffs' District 2 is not an "influence" district. It is one of two Latino registered voter majority districts.

4. It is extremely misleading to equate Defendants' District 5 with Plaintiffs' District 2. Plaintiffs' District 2 is not LCVAP-majority according to the 2008-12 American Community Survey (ACS), but Latino registered voters are a majority in that district, based on the March 2014 City of Yakima registered voter list. By contrast, Latino registered voters represent just 32.98% of voters in Defendants' District 5.

5. Table 1 also contains a column labeled "Total CVAP Deviation from Ideal" with text referencing these calculations. Dr. Morrison's implication is that

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<sup>1</sup> My October 1, 2014 Supplemental Declaration identifies Defendants' District 5 as Defendants' District 2. My earlier analysis was based on a draft map that Defendants provided to Plaintiffs that used a different numbering scheme than the plan formally submitted to the Court. Aside from the change in numbering, the two plans appear to be identical.

Dr. Morrison never responded in a substantive fashion to my April 19, 2013 Supplemental Declaration, in which I explain in considerable detail why Method 1 is the more analytically sound disaggregation method for small jurisdictions where proposed voting districts split census block groups. *See* ECF No. 66, Ex. 6 at 210-19.

Method 1 (Cooper method) does not "introduce an upward bias" to the LCVAP district statistics, as Dr. Morrison claims. This is clearly evident in my statistical report for the Defendants' Plan. District 1 has a higher LCVAP under Method 1 (54.51% versus 53.45% for Method 2 (Morrison method)). But District 5 has a lower LCVAP under Method 1 (34.84% versus 35.45% (Method 2)). *See* ECF No. 118, Ex. 3, ¶ 10 n.4. That said, the discrepancy between the two methods results in only nominal differences in LCVAP estimates for districts in Yakima.

balancing the citizen voting age population across districts is a traditional redistricting principle. It is not. I have prepared and analyzed thousands of local redistricting plans in more than 40 states over the past 25 years. Not once have I seen a jurisdiction or court rely on that metric to apportion and configure voting districts.

6. In Table 1 under “Key Features”, Dr. Morrison notes that the Defendants’ Plan minimizes precinct splits and that in the Plaintiffs’ Plan “precincts are unnecessarily split.” As explained in my deposition, ECF No. 66, Ex. 8 at 78:12-15, Plaintiffs’ Illustrative Plan 1 generally follows precinct lines. Alterations to existing precinct lines, in any event, have little practical relevance to voters and candidates in Yakima redistricting, because all ballots are cast by mail, and voters therefore no longer need go to a precinct-specific polling place to vote.

**Morrison Paragraph 3**

7. In the second bullet point of this paragraph, Dr. Morrison claims that “[District 5] will have at least the same percentage of eligible Hispanic voters that Plaintiffs’ District 2 currently has (45.34%) by 2020.” This assertion is both inaccurate and pure speculation. It is inaccurate because Plaintiffs’ District 2 already has a 53.35% Latino majority of registered voters – about 21 percentage points higher than Defendants’ District 5. It is pure speculation because Dr. Morrison provides no analysis that supports his conclusion.

**Morrison Paragraph 9**

8. Paragraph 9 elaborates on the speculative claims Dr. Morrison makes regarding the future ethnic composition of Defendants' District 5. In Footnote 3 of this paragraph, Dr. Morrison makes a vague reference to a "demographic accounting framework" for District 5 LCVAP projections that, to my knowledge, he has not disclosed to the Plaintiffs or the Court. Footnote 3 further references a PowerPoint presentation Dr. Morrison made in San Antonio, Texas earlier this year.<sup>2</sup> This presentation is not about projecting LCVAP in Yakima's City Council districts. Dr. Morrison's study presents a method to predict citywide LCVAP for several US cities, including Yakima.

9. In my opinion, it is not possible for Dr. Morrison to make reliable district-level projections of future LCVAP based on citywide trends. The ethnic composition of neighborhoods and election districts in Yakima may change over time, but perhaps in a way that runs counter to projected citywide trends. To my knowledge, there is no data source that would allow one to accurately predict population change and the ethnic composition of that change within a single city council district in Yakima.<sup>3</sup>

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<sup>2</sup> Dr. Morrison's presentation is available for download at the link below:  
[https://idserportal.utsa.edu/Resources/Presentations/IDSER/2014/ADC/ADC2014\\_2C\\_Morrison.pdf](https://idserportal.utsa.edu/Resources/Presentations/IDSER/2014/ADC/ADC2014_2C_Morrison.pdf).

<sup>3</sup> As a general matter, I agree with Dr. Morrison that citywide the Latino population and LCVAP will continue to grow if current trends continue.

10. Even assuming that Dr. Morrison's forecast of the 2020 LCVAP in Defendants' District 5 is accurate, it is very misleading for him to suggest that his 2020 projected 45.45% LCVAP in District 5 is functionally equivalent to Plaintiffs' District 2, which has had a majority of Latino registered voters since January 2013.

11. Paragraph 9 also repeats Morrison's false claim that both plans "afford Hispanics a strong 'influence' district in future elections". To reiterate, Plaintiffs' District 2 is not an influence district. Plaintiffs' District 2 is, in fact, a second Latino opportunity district, as it is currently a Latino registered voter majority district.

12. Assuming constant voter registration rate increases in step with Dr. Morrison's LCVAP projections, Latino registered voters would constitute about 43% of registered voters in Defendants' District 5 by 2020 – still about 10 percentage points below the current percentage in Plaintiffs' District 2.

13. Following the release of the 2020 Census, the boundaries for Defendants' District 5 may change in the 2021 redistricting process. But there is no assurance that a realigned District 5 would be drawn as a second majority-LCVAP or majority-Latino registered voter district. Conceivably, under the Defendants' Plan and its progeny, Latinos in Yakima would have to wait until the first election after the 2031 redistricting to get a second city council seat from an LCVAP-majority or Latino registered voter majority district.

**Morrison Paragraph 10**

14. In Paragraph 10, Dr. Morrison falsely claims that “Defendants’ plan is superior to Plaintiffs’ plan in that the former would result in a larger share of the City’s Hispanic population being in a majority-Hispanic district.” This is not true. Under the Plaintiffs’ Plan, 40.6% of Yakima’s LCVAP (and a majority – 51.45% – of the city’s total Latino population) currently resides in majority-Latino registered voter Districts 1 and 2. By contrast, under the Defendants’ Plan, just 30.6% of Yakima’s LCVAP (and 37.75% of the city’s total Latino population) is in majority-Latino District 1.

**Morrison Paragraph 11**

15. Dr. Morrison’s assertion that 59.4% of Latino adult citizens in the Plaintiffs’ Plan “would not be represented by someone who feels an electoral obligation to the Hispanic community” is odd because it undercuts his justification for the two at-large seats. If Dr. Morrison concedes that a candidate elected from a non-Latino majority district would not “feel[] an electoral obligation to the Hispanic community,” then that is certainly true of the two at-large seats, which would be voted on by a City that is 22.66% LCVAP, according to the 2008-12 ACS. Indeed, Districts 3 and 4 under the Plaintiffs’ Plan have a higher LCVAP than the citywide LCVAP (2008-12 ACS) for the two at-large positions in

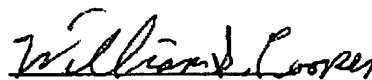
Defendants' proposed plan.

## CONCLUSION

16. Upon review of Dr. Morrison's declaration, I remain convinced that the Defendants' Plan is an inadequate remedy that would likely consign Latino voters to the opportunity to elect just a single seat on the Yakima City Council for the foreseeable future. On the other hand, the Plaintiffs' Plan would afford the Latino community in Yakima an immediate opportunity to elect their candidates of choice to two seats on City Council, which is commensurate with the City's current LCVAP and registered voter data.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: October 23, 2014



WILLIAM S. COOPER