

STATE OF NEW MEXICO
COUNTY OF SANDOVAL
THIRTEENTH JUDICIAL DISTRICT COURT

DEMOCRATIC PARTY OF SANDOVAL COUNTY,
PUEBLO OF SAN FELIPE, DAYMON ELY,
BRENDA G. McKENNA, ALETA PAISANO SUAZO,
LAURA M. MONTOYA, ALEXANDRIA PILAND,
KATHERINE A. BRUCH, and JACK TORRES,

Plaintiffs,

v.

Case No. D-1329-CV-2022-00398

BOARD OF COUNTY COMMISSIONERS OF
SANDOVAL COUNTY, and ANNE BRADY-ROMERO,
Clerk of Sandoval County in her official
capacity,

Defendants.

COMPLAINT

COME NOW, Plaintiffs, by and through counsel, Kenneth H. Stalter (Stalter Law LLC), and Theodore W. Barudin (Barudin Law Firm, P.C.) and for their causes of action state as follows:

Introduction

1. On December 9, 2021, the Sandoval County Board of Commissioners (“Commissioners”) voted on party lines to adopt a re-districting scheme, “Plan D,” that advantages Republicans and Non-Hispanic Whites and disadvantages Democrats, Native Americans, and Hispanics. Sandoval County enacted its 2021 Redistricting Plan in Resolution No. 12-9-21.10. Plaintiffs challenge Plan D under the New Mexico Constitution, state statutes, and county ordinances.

The Plaintiffs

2. Plaintiff Democratic Party of Sandoval County (“DPSC”) is a political committee organized under state law. Its mission is (i) to bring people together to develop public policies

and positions based on the values shared by Democrats within Sandoval County, (ii) to identify candidates who will support and defend those policies and positions, and (iii) to persuade voters to cast their ballots for those candidates. These purposes are essential to the functioning of our democracy. Defendant's unlawful partisan gerrymander was adopted to discriminate against the DPSC and its members because of their beliefs and association; to suppress or nullify the capacity of the DPSC to achieve its essential purposes for its members; and to prevent the election of DPSC candidates to Districts 2, 3, and 4.

3. Plaintiff Pueblo of San Felipe is a federally recognized Indian tribe whose tribal lands are located in Sandoval County. Pueblo of San Felipe members are eligible to vote and are registered to vote as citizens of the United States and New Mexico. Most Pueblo members live on Pueblo of San Felipe tribal lands.

4. The members of the Pueblo of San Felipe are Native Americans recognized in law as political and ethnic minorities and are entitled to equal protection of the laws. .

5. The Pueblo of San Felipe's participation in this litigation is not intended to and shall not be considered as a waiver of the Pueblo's sovereign immunity.

6. Plaintiff Aleta Paisano Suazo is a resident of Sandoval County and is a registered voter enrolled in the Democratic Party. Plaintiff Suazo is, in United States Census Bureau Terms, Native American.

7. Plaintiff Brenna G. McKenna is a resident of Sandoval County and is a registered voter enrolled in the Democratic Party. Plaintiff McKenna is, in United States Census Bureau Terms, Native American. Plaintiff McKenna is the District 9 Senator representing Bernalillo and Sandoval Counties to the New Mexico State Senate.

8. Plaintiff Daymon Ely is a resident of Sandoval County and is a registered voter enrolled in the Democratic Party. Plaintiff Ely is the District 23 Representative representing Bernalillo and Sandoval Counties to the New Mexico State House of Representatives.

9. Plaintiff Laura M. Montoya is a resident of Sandoval County and is a registered voter enrolled in the Democratic Party. Plaintiff Montoya is the former Sandoval County Treasurer. Plaintiff Montoya is, in United States Census Bureau Terms, Hispanic.

10. Plaintiff Alexandria Piland is a resident of Sandoval County and is a registered voter in Sandoval County. Plaintiff Piland is currently the Chair of the Democratic Party of Sandoval County. Plaintiff Piland is, in United States Census Bureau Terms, Hispanic.

11. Plaintiff Katherine A. Bruch is a resident of Sandoval County and is a registered voter enrolled in the Democratic Party. Plaintiff Bruch is the Sandoval County Commissioner for District 1.

12. Plaintiff Jack Torres is a resident of Sandoval County and is a registered voter enrolled in the Democratic Party. Plaintiff Torres is the Mayor of the Town of Bernalillo. Plaintiff Torres is, in United States Census Bureau Terms, Hispanic.

Defendants

13. Defendant Sandoval County Board of County Commissioners (“Sandoval County” and “Commissioners”) is the governing body of Sandoval County, New Mexico, which is a political subdivision of the State of New Mexico and a “public body” within the meaning of the New Mexico Civil Rights Act, NMSA 1978, Section 41-4A-2 (2021). Defendant Anne Brady-Romero is the Clerk of Sandoval County and is the proper person to receive service of process of this lawsuit.

14. Defendant Sandoval County is the governing authority of the County. NMSA 1978, Section 4-38-1. The Board of Commissioners provides local government services in Sandoval

County and has the legislative power to adopt laws affecting its affairs and local government. In particular, the Commissioners are responsible for adopting the redistricting plan governing the election of its members, including the redistricting plan at issue in this case, the 2021 Redistricting Plan, through its authority to divide the county “into single-member districts,” which “shall be made once immediately following each federal decennial census.” N.M. Stat. Ann. Section 4-38-3.

15. Sandoval County Commissioners play a leading role in the County’s government. The Board is the legislative body of the county determining issues critical to county residents’ daily lives such as budgeting for county services and roads, taxing, issuing of bonds, zoning, and adopting other regulations by ordinance. The Board is comprised of five (5) Commissioners elected from single-member districts.

16. Defendant Anne Brady-Romero is the Sandoval County Clerk (the “County Clerk”). The County Clerk serves as an *ex-officio* member of the Board of Commissioners. NMSA 1978, Sections 4-40-3 to -8. The County Clerk is the Chief Elections Officer for Sandoval County. *See* THE NEW MEXICO COUNTY COMMISSIONER HANDBOOK 145 at A.4.3 (Dec. 2020 ed.). In that capacity, the County Clerk has statutory powers, duties and responsibilities concerning the conduct of elections held in Sandoval County; the County Clerk oversees and is responsible for the administration of elections in the county, including elections for the Board of Commissioners under the Redistricting Plan at issue in this case. *See* NMSA 1978, Sections 4-40-3 to -8. Defendant Brady-Romero is being sued in her official capacity.

17. Plaintiffs do not allege that Defendant Brady-Romero personally had any role in adopting the unconstitutional redistricting plan. Plaintiffs sue Defendant Brady-Romero solely in her official capacity because the injunctive relief sought in this lawsuit must be directed toward the office with administrative responsibility for elections in the County.

18. Like many regions with large populations of American Indian voters, Sandoval County has a lengthy history of submerging and suppressing the participation of Native Americans and Hispanic voters in the political process.

General Allegations

19. Plaintiffs reincorporate all of the allegations as if stated herein.

20. This Complaint and the damages alleged herein arise from the redistricting plan adopted in and for Sandoval County, New Mexico by the Board of County Commissioners of Sandoval County. Sandoval County adopted the redistricting plan on December 9, 2021 by Sandoval County, Resolution No. 12-9-21.10 (“Redistricting Plan”).

21. The claims and causes of action in this Complaint are brought solely under state law and county ordinance; specifically, the New Mexico Constitution; the New Mexico Civil Rights Act, NMSA 1978, Section 41-4A-1 *et. seq*; and Sandoval County Ordinance Sec. 2-21. Nothing in this Complaint alleges or is intended to allege a violation of federal law.

22. This Court has personal jurisdiction over the named parties.

23. This Court has subject matter jurisdiction over this matter.

24. Venue is proper in this Court.

25. The majority of the land in Sandoval County is located on the recognized tribal lands including the Sandoval County Pueblos, Navajo Chapter Houses, and the Jicarilla Nation. Citizens of these tribal nations comprise the overwhelming majority of Sandoval County’s Native American residents.

The Board of County Commissioners adopts Plan D.

26. Plaintiffs incorporate all previous allegations.

27. The County’s Board of Commissioners is comprised of five members elected from single-member districts to four-year, staggered terms. N.M. Const. art. X, Sections 2, 7; NMSA 1978, Sections 4-38-2, -3, -6.
28. To ensure that Board of Commissioner terms are staggered, New Mexico law provides that “the terms of no more than three commissioners shall expire in the same year.” N.M. Const. art. X, Section 2(C).
29. Commissioners must reside in the district from which they are elected. N.M. Const. art. X, Section 7; NMSA 1978, Section 4-38-3.
26. The elections for the Board of Commissioners are partisan, and primary elections are held to determine which candidates advance to the general election.
27. The term of a member of the Board of Commissioners commences “on the first day of January next after his [or her] election.” N.M. Const. art. XX, Section 3.
28. After a Commissioner has served two consecutive four-year terms on the Board of Commissioners, they are “ineligible to hold any county office for two years thereafter.” N.M. Const. art. X, Section 2.
29. State law requires that the Board of Commissioners redistrict after “each federal decennial Census.” NMSA 1978, Section 4-38-6. Counties such as Sandoval, which has a population exceeding thirteen thousand, must be “divided by the board of county commissioners into as many compact single-member districts as there are board members to be elected.” *Id.*
30. Commissioner districts must be “compact, contiguous and as nearly equal in population as practicable.” N.M. Const. art. X, Section 7; *see also* NMSA 1978, Section 4-38-3 (districts “shall be as equal in population as possible”).
31. The Sandoval County Board of Commissioners hired Rod Adair’s company, New Mexico Demographic Research, LLC, to develop proposals for re-districting Sandoval County.

Adair is a member of the Republican Party, has previously been elected to the New Mexico Senate as a Republican, and frequently expresses animosity toward Democrats on social media.

32. At the November 18, 2021 Commission meeting, Adair presented four possible maps: Plan A, Plan B, Plan C, and Plan D. Each of these four plans—Plan A, Plan B, Plan C, and Plan D—shared the feature of packing Native American voters into District 5.

33. Native American leaders and constituents objected to the fact that these proposals were made without their input. On November 30, 2021, Wilfred Herrera, Chairman of All Pueblo Council of Governors [“APCG”], sent a letter to Sandoval County Commissioner Chair Heil, objecting to the plan to pack Native American voters into a single district and to the fact that “none of the Five Sandoval Pueblos were contacted, consulted or provided an opportunity to review the redistricting maps prepared and proposed by the County Commission’s consultant.” According to APCG, the map prepared by Adair failed to account for the Pueblos’ “economic, political, and social interests.” APCG offered to collaborate and consult with the Commission to develop fair and representative maps. This was never done.

34. On December 3, 2021, New Mexico Attorney General Hector Balderas sent a letter to the five (5) Sandoval County Commissioners regarding the anticipated December 9, 2021 Sandoval County redistricting meeting. Mr. Balderas set forth that his office had received numerous complaints pertaining to the proposed redistricting maps and that due to Sandoval County’s failure to conduct tribal consultation, “...he urged Sandoval County to increase consultation with the Native American voters regarding their concerns prior to finalizing any plans ...”.

35. Attorney General Balderas further stated “...it seems possible that the Sandoval County Commissions’ planning could trigger litigation, thereby preventing a smooth reorganization of the State” and that “packing” most Native American Pueblos and chapters in a proposed new

Sandoval County District 5 by removing some Pueblos from the current District I could lessen Native American residents' ability to elect Pueblo leaders to serve as commissioners.

36. Prior to the December 9, 2021 meeting, Commissioner Eichwald worked with Pueblo Governors, other Tribal Leaders, elected officials in affected municipalities, and constituents to develop an alternate plan. The plan was presented at the December 9, 2021 meeting and was referred to as the "Eichwald Plan." The Eichwald Plan had the lowest population deviation of any of the plans proposed, minimized changes from existing districts, and kept communities and subdivisions together. The boundaries of districts followed major roads or geographical features.

37. At the December 9, 2021 meeting, despite the availability of a viable, fair and lawful alternative, the Sandoval County Commissioners voted along party lines to adopt Plan D as the County's redistricting scheme.

Plan D dilutes the votes of Democrats.

38. Plaintiffs incorporate all previous allegations.

39. A plurality of registered voters in Sandoval County are Democrats. As of December 20, 2021, Sandoval County voter registration numbers were:

Party	Number	Percent
Democratic	44,736	42.4%
Republican	35,110	33.3%
Libertarian	1,180	1.1%
Independent/No Party	23,501	22.3%
Other	912	< 1%

40. Plan D gives Republican candidates the advantage in three commission districts (Districts 2, 3, and 4). Under Plan D, even though Republicans trail Democrats in voter registration by nearly 10%, Republicans will likely command three of the five commission seats. Plan D primarily achieves this result by “packing” Democratic voters into District 5.

41. Plan D was intended to create a safe district for Commissioner Jay Block in District 2.

42. In the 2020 general election, the vote in District 2 went approximately 52% to 46% for the Democratic Presidential candidate. If the same election were held with districts as defined by Plan D, the vote would be approximately 51% to 47% for the Republican Presidential candidate.

43. Plan D maintains an existing Republican advantage in District 3.

44. Plan D increases the Republican advantage in District 4.

Plan D dilutes the votes of Native Americans and Hispanics.

45. Plaintiffs incorporate all previous allegations.

46. Non-Hispanic Whites now comprise 47.0% of the voting-age population and just 42.6% of the total population. Despite this fact, Plan D creates three districts in which Non-Hispanic Whites comprise a majority of the voting-age population (Districts 1, 2, and 3) and a fourth where Non-Hispanic Whites are a plurality of the voting-age population (District 4).

47. Plan D achieves this result primarily by “packing” Native Americans into District 5. In the prior districts, Native Americans were substantially represented in both Districts 1 and 5, with about one-quarter of the county’s Native Americans in District 1 and about sixty percent of the county’s Native Americans in District 5. Under Plan D, more than three-quarters of the county’s Native Americans are “packed” into District 5.

48. This Plan D redistricting has substantially reduced the proportion of Native American voters in District 1. Previously, Native Americans were 13.9% of the voting age population of District 1. Under Plan D, they are just 3.8%.

49. By inflating the electoral power of Non-Hispanic Whites, Plan D disadvantages all other groups, including not only Native Americans as discussed above, but also Hispanics, who represent the second-largest proportion of population in Sandoval County.

Plan D creates unequal districts.

50. Plaintiffs incorporate all previous allegations.

51. The total population in Sandoval County is 148,834. If the districts were apportioned equally, then each district would have approximately 29,767 residents.

52. Plan D, however, created districts that range from 28,457 to 31,203. The variance created by these districts is -4.4% and +4.8%.

53. The districts in Plan D are not as equal as possible. Additionally, Plan D put the more voters in growing districts, meaning that the variance and inequality is likely to increase in the future.

54. Other viable options created districts with lower variance. The highest variance in the Eichwald Plan was 1.9%.

Legitimate considerations do not justify Plan D

55. Plaintiffs incorporate all previous allegations.

56. Plan D was passed with the intent and predominant purpose of giving disproportionate representation to Republicans and Non-Hispanic Whites and diluting the voting power of Democrats, Hispanics, and Native Americans.

57. Plan D's unlawful intent is revealed by the fact that Plan D's districts are not justified by neutral, non-partisan, non-discriminatory principles. To the contrary, Plan D violates basic principles of re-districting. Plan D splits and separates communities of interest, including splitting the Town of Bernalillo into three different districts. Plan D places the highest number of voters in a growing district, fails to preserve the cores of previous district, interferes with the

distribution of funding, and shuffles approximately 10,000 voters from one election cycle to the next.

58. In 2011, the New Mexico Supreme Court decided *Maestas v. Hall*, 2012-NMSC-006, 274 P.3d 66, which articulated, *inter alia*, “communities of interest” and “total deviation” in analysis of whether a voting district’s population deviation complies with the equal protection clause.

59. Sandoval County’s Redistricting Plan does not comply with the mandates of *Maestas*, and in such application, violates New Mexico law.

New Mexico law requires tribal consultation and collaboration.

60. Plaintiffs incorporate all previous allegations.

61. Since 2009, New Mexico law requires state agencies, and by implication state political subdivisions including Sandoval County, to consult and collaborate with New Mexico Native Americans and tribes. State of New Mexico State-Tribal Collaboration Act (“Collaboration Act”) NMSA 1978, Sections 11-18-1 through 11-18-5.

62. Sandoval County and its personnel and Commissioners have failed in an on-going manner to consult with the Sandoval County tribes in any of the redistricting actions complained of herein, thereby violating the Collaboration Act.

COUNT I: Free and Open Elections

63. Plaintiffs incorporate all previous allegations.

64. Article II, Section 8 of the New Mexico Constitution states, “All elections shall be free and open, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.”

65. Plan D violates this provision by favoring some voters (Republicans) and burdening or penalizing other voters (Democrats) based on their political expressions and beliefs, political

affiliations and memberships, and voting history. Plan D dilutes or nullifies the votes of Democrats. No legitimate governmental interest justifies this dilution or nullification.

66. Plan D violates this provision by favoring some voters (Non-Hispanic Whites) and burdening or penalizing other votes (Hispanics and Native Americans) based on protected characteristics. Plan D dilutes or nullifies the votes of Hispanics and Native Americans. No legitimate governmental interest justifies this dilution or nullification.

67. Defendant Board of County Commissioners, either directly or through persons acting on behalf of Defendant, under color of or within the course and scope of the authority of Defendant and under the color of state law, subjected residents of Sandoval County and New Mexico to a deprivation of rights, privileges and immunities secured pursuant to the bill of rights of the constitution of New Mexico.

68. Under New Mexico Civil Rights Act, NMSA 1978, Section 41-4A-3 (2021), Plaintiffs are entitled to an award of compensatory damages, reasonable attorney fees, and the costs of this action.

69. Plaintiffs are entitled to declaratory judgment that Plan D violates Article II, Section 8 of the New Mexico Constitution and other New Mexico statutes. In seeking such declaration, Plaintiffs seek an order declaring that the 2021 Sandoval County Redistricting Plan, Resolution No. 12-9-21.10 in effect for the Board of Commissioners elections from 2022 to 2030, violates the New Mexico Constitution and New Mexico law.

70. For these reasons, Plaintiffs seek an order of this Court that: (i) Plan D should be preliminarily and permanently enjoined, (ii) preliminarily and permanently enjoining Defendants from conducting future elections under that districting plan, (iii) requiring implementation of a

new districting plan that is consistent with the New Mexico Constitution and New Mexico law, and, (iv) providing such additional relief as is warranted under the circumstances.

COUNT II: Freedom of Speech

71. Plaintiffs incorporate all previous allegations.

72. Article II, Section 17 of the New Mexico Constitution states, “Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press.”

73. Plan D violates this provision by favoring some voters (Republicans) and burdening or penalizing other voters (Democrats) based on their political expressions and beliefs, political affiliations and memberships, and voting history. Plan D dilutes or nullifies the votes of Democrats. No legitimate governmental interest justifies this dilution or nullification.

74. Article II, Section 17 provides greater protections than the First Amendment of the United States Constitution. The New Mexico Constitution permits courts to review redistricting schemes for partisan gerrymandering and to apply freedom-of-speech and freedom-of-association principles in doing so.

75. Defendant Board of County Commissioners, either directly or through persons acting on behalf of Defendant, and under color of state law, subjected residents of Sandoval County and within the course and scope of the authority of Defendant, and further subjected residents of Sandoval County and New Mexico to a deprivation of rights, privileges and immunities secured pursuant to the bill of rights of the constitution of New Mexico.

76. Under New Mexico Civil Rights Act, NMSA 1978, Section 41-4A-3 (2021), Plaintiffs are entitled to an award of compensatory damages, reasonable attorney fees, and the costs of this action.

77. Plaintiffs are entitled to declaratory judgment that Plan D violates Article II, Section 8 of the New Mexico Constitution and other New Mexico statutes. In seeking such declaration, Plaintiffs seek an order declaring that the 2021 Sandoval County Redistricting Plan, Resolution No. 12-9-21.10 in effect for the Board of Commissioners elections from 2022 to 2030 violates the New Mexico Constitution and New Mexico law.

78. In addition, Plaintiffs seek an order of this Court that: (i) Plan D should be preliminarily and permanently enjoined, (ii) that Defendants be enjoined from conducting future elections under the current redistricting plan, (iii) requiring implementation of a new districting plan that is consistent with the New Mexico Constitution and New Mexico law, and (iv) providing such additional relief as is warranted under the circumstances.

COUNT III: Equal Protection

79. Plaintiffs incorporate all previous allegations.

80. Article II, Section 18 of the New Mexico Constitution states, “No person shall be deprived of life, liberty or property without due process of law; nor shall any person be denied equal protection of the laws.”

81. Plan D violates this provision by favoring some voters (Republicans) and burdening or penalizing other voters (Democrats) based on their political expressions and beliefs, political affiliations and memberships, and voting history. Plan D dilutes or nullifies the votes of Democrats. No legitimate governmental interest justifies this dilution or nullification.

82. Plan D violates this provision by favoring some voters (Non-Hispanic Whites) and burdening or penalizing other votes (Hispanics and Native Americans) based on their political or ethnic identities. Plan D dilutes or nullifies the votes of Hispanics and Native Americans. No legitimate governmental interest justifies this dilution or nullification.

83. Article II, Section 18 provides greater protections than the Fourteenth Amendment of the United States Constitution. The New Mexico Constitution permits courts to review redistricting schemes for partisan gerrymandering and to apply equal protection principles in doing so.

84. Defendant Board of County Commissioners, either directly or through persons acting on behalf of Defendant, and under color of state law, subjected residents of Sandoval County and within the course and scope of the authority of Defendant, and further subjected residents of Sandoval County and New Mexico to a deprivation of rights, privileges and immunities secured pursuant to the bill of rights of the constitution of New Mexico.

85. Under the New Mexico Civil Rights Act, NMSA 1978, Section 41-4A-3 (2021), Plaintiffs are entitled to an award of compensatory damages, reasonable attorney fees, and the costs of this action.

86. Plaintiffs are entitled to declaratory judgment that Plan D violates Article II, Section 8 of the New Mexico Constitution and other New Mexico statutes. In seeking such declaration, Plaintiffs seek an order declaring that the 2021 Sandoval County Redistricting Plan, Resolution No. 12-9-21.10 in effect for the Board of Commissioners elections from 2022 to 2030 violates the New Mexico Constitution and New Mexico law.

87. In addition, Plaintiffs seek an order of this Court that: (i) Plan D should be preliminarily and permanently enjoined, (ii) that Defendant be enjoined from conducting future elections under the current redistricting plan, (iii) requiring implementation of a new districting plan that is consistent with the New Mexico Constitution and New Mexico law, and (iv) providing such additional relief as is warranted under the circumstances.

COUNT IV: Equality of Elective Franchise

88. Plaintiffs incorporate all previous allegations.

89. Article VII, Section 3 of the New Mexico Constitution states, “The right of any citizen of the state to vote, hold office or sit upon juries, shall never be restricted, abridged or impaired on account of religion, race, language or color. . .”

90. Plan D violates this provision by restricting, abridging, or impairing the right to vote based on political classification, color, or other constitutionally protected characteristics. Plan D dilutes or nullifies the votes of Hispanics and Native Americans. No legitimate governmental interest justifies this dilution or nullification.

91. Defendant Board of County Commissioners, either directly or through persons acting on behalf of Defendant, and under color of state law, subjected residents of Sandoval County and within the course and scope of the authority of Defendant, and further subjected residents of Sandoval County and New Mexico to a deprivation of rights, privileges and immunities secured pursuant to the bill of rights of the constitution of New Mexico.

92. Under New Mexico Civil Rights Act, NMSA 1978, Section 41-4A-3 (2021), Plaintiffs are entitled to an award of compensatory damages, reasonable attorney fees, and the costs of this action.

93. Plaintiffs are entitled to declaratory judgment that Plan D violates Article II, Section 8 of the New Mexico Constitution and other New Mexico statutes. In seeking such declaration, Plaintiffs seek an order declaring that the 2021 Sandoval County Redistricting Plan, Resolution No. 12-9-21.10 in effect for the Board of Commissioners elections from 2022 to 2030 violates the New Mexico Constitution and New Mexico law.

94. In addition, Plaintiffs seek an order of this Court that: (i) Plan D should be preliminarily and permanently enjoined, (ii) that Defendants be enjoined from conducting future elections under the current redistricting plan, (iii) requiring implementation of a new districting plan that is

consistent with the New Mexico Constitution and New Mexico law, and (iv) providing such additional relief as is warranted under the circumstances.

COUNT V: Equal Districts

95. Plaintiffs incorporate all previous allegations.

96. Article X, Section 7 of the New Mexico Constitution states that county commission districts “shall be compact, contiguous and as nearly equal in population as practicable.”

97. NMSA 1978, Section 4-38-3 (2002) states that county commission districts shall be “as equal in population as possible.”

98. NMSA 1978, Section 1-3-13 (2021) states that a “local public body shall establish districts in which the number of persons in each district, as shown in the most recent federal decennial census, is as nearly equal in population as practical, but within five percent of the mean.”

99. Sandoval County Ordinance Sec. 2-21 states that “shall be compact, contiguous and as nearly equal in population as possible.”

100. Plan D violates these provisions by creating districts that are not as equal in population as possible.

101. Plan D violates this provision by restricting, abridging, or impairing the right to vote based on race or color. Plan D dilutes or nullifies the votes of Hispanics and Native Americans. No legitimate governmental interest justifies this dilution or nullification.

102. Defendant Board of County Commissioners, either directly or through persons acting on behalf of Defendant, and under color of state law, subjected residents of Sandoval County and within the course and scope of the authority of Defendant, and further subjected residents of Sandoval County and New Mexico to a deprivation of rights, privileges and immunities secured pursuant to the bill of rights of the constitution of New Mexico.

103. Plaintiffs are entitled to declaratory judgment that Plan D violates Article II, Section 8 of the New Mexico Constitution and other New Mexico statutes. In seeking such declaration, Plaintiffs seek an order declaring that the 2021 Sandoval County Redistricting Plan, Resolution No. 12-9-21.10 in effect for the Board of Commissioners elections from 2022 to 2030 violates the New Mexico Constitution and New Mexico law.

104. In addition, Plaintiffs seek an order of this Court that: (i) Plan D should be preliminarily and permanently enjoined, (ii) that Defendants be enjoined from conducting future elections under the current redistricting plan, (iii) requiring implementation of a new districting plan that is consistent with the New Mexico Constitution and New Mexico law, and, (iv) providing such additional relief as is warranted under the circumstances.

Relief Requested

WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

- A. Preliminarily and permanently enjoin Plan D;
- B. Declare that Plan D violates the New Mexico Constitution, state statutes, and county ordinance as detailed above;
- C. That Defendants be enjoined from conducting future elections under the current redistricting plan;
- D. Ordering implementation of a new districting plan that is consistent with the New Mexico Constitution, New Mexico law, and principles of tribal sovereignty, including, without limitation, tribal self-determination and tribal consultation;
- E. Award Plaintiffs compensatory damages;
- F. Award Plaintiffs the costs and expenses of this action;
- G. Award Plaintiffs reasonable attorneys' fees; and
- H. Grant such further relief as the Court deems proper.

Respectfully submitted,

STALTER LAW LLC

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