



CLIENT NEWS BRIEF

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CALIFORNIA VOTING RIGHTS ACT UPDATE: ATTORNEYS' FEES AND COUNTY COMMITTEE LIABILITY CLARIFIED

Recent challenges under the California Voting Rights Act ("CVRA") have raised numerous issues about the at-large trustee voting arrangements in effect in most school districts. A new superior court decision provides helpful guidance on two important issues: (1) what attorneys' fees are reasonable to award to plaintiffs successfully challenging a school district's at-large trustee voting scheme under the CVRA and (2) a County Committee's liability for failing to initiate a change from at-large to by-trustee area voting. The judge in a Madera Unified School District case issued an opinion on these two issues on August 23, 2010. (See Rey v. Madera Unified School District et. al., Madera County Superior Court, Case No. MCV043467).

In August of 2008, the Lawyers Committee for Civil Rights ("LCCR") filed a lawsuit against Madera Unified School District ("District") seeking an order requiring the District to change from at-large to by-trustee area voting. In an at-large voting scheme, trustees are elected from the entire geographic area of the public agency. In a trustee area voting scheme, trustees are elected to represent a designated portion of the geographic area and must reside in that portion of the geographic area. The District did not oppose LCCR's motion for a preliminary injunction; therefore, the judge granted an injunction that prevented the November 2008 Board election from proceeding.

The District took all of the necessary steps to change from at-large to by-trustee area voting. A board election was held on May 19, 2009 using the newly established trustee areas. Thus, there was essentially never a dispute on the substantive question of whether to change to by-trustee area voting and the LCCR lawsuit was successful in getting the District to change its voting scheme. The CVRA awards attorneys' fees to successful plaintiffs. Thus, the LCCR sought the payment of attorneys' fees and costs in the amount of approximately \$1,000,000.

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The court characterized the plaintiffs' attorneys' fee claim as "patently unreasonable." The plaintiffs sought attorneys' fees at rates ranging from \$295 to \$760 per hour. The court held that, for this type of litigation in the Central Valley, reasonable attorneys' fees should range from \$200 to \$400 per hour. The court elected to order compensation for fees to the plaintiffs at the rate of \$300 per hour. In addition to reducing the rate for compensation, the court also reduced the number of allowable billed hours by attorneys, finding that many of the hours claimed were duplicative. Finally, the plaintiffs also asked the court to multiply their award due to the important public interest and policy issues at stake in the case, but the court declined to grant a multiplier. Ultimately, the court granted attorneys' fees in the much lower amount of \$162,500.

The plaintiffs had also alleged that the Madera County Board of Education ("County Board") was liable for attorneys' fees for its failure to initiate a change in the manner of election used by the District. In Madera County, the County Board sits as the County Committee on School District Organization ("County Committee"). The Education Code authorizes a County Committee to initiate a change in election systems on its own initiative. In this case, the District's at-large election system had been in place for many years, and LCCR contended that the County Board should be liable under the CVRA for its failure to act because the CVRA states that an at-large method of election cannot be "imposed or applied" in a manner that impairs the rights of a protected class.

The court held that the CVRA does not create an affirmative duty for the County Committee to review the voting methods of the various school districts within the County. The County Board was not liable since it did not "impose or apply" the unlawful at-large election system.

This case only involved the opinion of a superior court judge; therefore, it is not precedential and, technically, cannot be relied upon by other school districts or county offices. In addition, the case may be appealed. Nonetheless, the case is important and helpful as guidance for school districts, county offices and county committees throughout the state that are wrestling with CVRA issues.

CLIENT NEWS BRIEF

August 2010

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In another recent case under the CVRA, the Tulare Hospital District (“Hospital”) was sued by plaintiffs asserting that the Hospital should adopt a trustee area voting scheme. The Hospital chose to contest the lawsuit for various reasons, including the fact that its board was very diverse. Many involved in CVRA issues were hopeful that the case would ultimately help clarify the law. However, the case was recently settled.

Under the terms of the settlement, the Hospital will pay the plaintiff’s attorneys’ fees in the amount of \$500,000 and will be responsible to pay its own attorneys’ fees, likely a similar amount. The question of whether the Hospital should elect their board members by trustee area instead of continuing with an at-large system will be submitted to the voters. The November 2010 election of Hospital board members has been postponed with the approval of the Tulare County Superior Court in order to allow the Hospital District to use 2010 census data and then submit the matter to the voters in 2011.

We will continue to monitor the status of the Madera Unified School District case discussed above, and will provide further updates if the case is appealed. If you have any questions about these issues or if you would like information about the California Voting Rights Act, please do not hesitate to contact one of our [seven offices](#) located statewide or consult our [website](#).

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As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.