



CALIFORNIA VOTING RIGHTS ACT DECISION AFFIRMED BY COURT OF APPEAL

In a recent decision, *Rey v. Madera Unified School District* (February 28, 2012) ___ Cal.App.4th ___ (2012 WL 615668), the California Fifth District Court of Appeal affirmed a trial court ruling which held that a school district's at-large trustee voting system was in violation of the California Voting Rights Act (CVRA), and that, although the district approved a plan to move to by-trustee area elections within three months of receiving the complaint letter, it was required to pay \$162,500 in plaintiff's attorneys' fees.

In 2008, three Latino citizens, represented by the Lawyers' Committee for Civil Rights ("plaintiffs"), a nonprofit organization that provides legal services to address racial discrimination, sued Madera Unified School District (MUSD) and the Madera County Board of Education in its capacity as the county committee on school district organization ("County Committee") for alleged violations of the CVRA.

In their complaint, the plaintiffs contended that MUSD's at-large method of elections violated the CVRA by impairing the ability of Latinos to elect candidates of their choice. The plaintiffs noted the lack of equivalent representation on the school board in that 44% of MUSD's voting population was Latino, yet only one of the seven board members (14%) was Latino. Pursuant to the CVRA, plaintiffs requested that the court impose a by-trustee area election system.

The Madera County Superior Court granted the plaintiffs a preliminary injunction, invalidating in advance the results of MUSD's then-upcoming November 2008 school board election. Although neither MUSD nor the County Committee opposed the preliminary injunction, the court also found that the plaintiffs were entitled to an award of attorneys' fees as the prevailing parties under the CVRA, but left the amount to be determined later. Within two months after the court granted the preliminary injunction, MUSD approved a plan to switch to trustee-area elections, which was then approved by the County Committee. Thereafter, the court granted summary judgment to the County Committee, finding that it had no role in carrying out MUSD's elections, and thus did not violate the CVRA.

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The court also ruled on the plaintiffs' request for attorneys' fees. The plaintiffs had requested fees in the amount of \$1.7 million against both MUSD and the County Committee. However, the court held that the plaintiffs were not entitled to any fees spent in litigating the matter against the County Committee, and reduced the amount of fees against MUSD to \$162,500. The plaintiffs filed an appeal, contesting the reduction of the fee award.

The appellate court affirmed the judgment in full, holding that the County Committee had no affirmative duty to ensure that MUSD's at-large voting method did not result in the dilution of Latino votes; thus the County Committee had not violated the CVRA. The appellate court also held that the trial court was justified in reducing the attorneys' fees sought against MUSD, taking into account factors such as the apparent duplication of work and the higher rates charged by out-of-town attorneys compared to local counsel, as well as the fact that the plaintiffs had achieved the result they sought within three months after filing the case.

Although MUSD's quick response to the lawsuit avoided a potentially much harsher outcome in this matter, this case serves as a reminder that school districts and other local agencies with at-large trustee or council-member voting systems may run the risk of having a CVRA lawsuit filed against them, and that even a quick settlement of a CVRA action may result in liability for the other side's attorneys' fees and court costs.

Lozano Smith has assisted school districts and other local agencies throughout the state in dealing with CVRA and other election-related matters. If you have any questions or concerns about whether your election system may be subject to a legal challenge, or have other questions regarding elections and governance, please do not hesitate to contact one of our [eight offices](#) located statewide, visit our [website](#), or follow us on [Facebook](#).

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