

FILED
SUPREME COURT
STATE OF WASHINGTON
7/11/2022 4:32 PM
BY ERIN L. LENNON
CLERK

No. 100999-2

SUPREME COURT OF THE STATE OF WASHINGTON

GABRIEL PORTUGAL, ET AL.

RESPONDENTS,

VS.

FRANKLIN COUNTY,

DEFENDANT,

AND

JAMES GIMENEZ,

APPELLANT.

ANSWER TO STATEMENT OF GROUNDS FOR DIRECT REVIEW

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Forthcoming
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I. Introduction

The Washington Constitution protects the right to vote. Wash. Const. art. I, §19. To do so, the Legislature enacted the Washington Voting Rights Act (WVRA) which provides for protections against vote dilution through a voter initiated suit or through voluntary changes by a local government. RCW 29A.92.005. Respondents are three Latino¹ voters (Latino Voters) who brought suit against Defendant Franklin County (County) under the WVRA. Latino Voters alleged that the use of at-large elections for the County Commission caused impermissible vote dilution of the Latino community. The underlying lawsuit is settled, but Appellant James Gimenez (Gimenez) challenged the constitutionality of the WVRA

¹ Respondents use the terms “Latino” and “Hispanic” interchangeably to refer to individuals who self-identify as Latino or Hispanic. Additionally, the terms “Latino” and “Hispanic” mean persons of Hispanic/Spanish origin as defined by the United States Census Bureau and U.S. Office of Management and Budget (OMB).

during the proceedings of the suit and has now appealed the trial court's decision.

Recognizing the Legislature's right under the Washington Constitution to remedy vote dilution, the trial court upheld the WVRA. Respondents agree that determining the constitutionality of the WVRA is a fundamental and urgent issue of broad public import that requires prompt and ultimate determination by this Court under RAP 4.2(a)(4). Elections are not replicable and there is an urgent need for final resolution of this litigation. This Court should accept direct review and affirm that the WVRA is constitutional.

II. Counterstatement of the Issues Presented for Review

- (1) Is a party who challenges the constitutionality of a law under the Uniform Declaratory Judgement Act required to provide notice to the Washington Attorney General of the challenge?
- (2) Does the WVRA violate the Wash. Const. Art. 1 § 12?

(3) Is a named governmental defendant who is responsible for, or condones, the intervention of a third party to challenge the WVRA's constitutionality also responsible for possible attorney fees incurred to defeat the intervenor's challenge?

III. Nature of Case and Decision

After filing the statutorily required notice letter with the County in October 2020, Latino Voters filed suit under the WVRA. Specifically, they alleged that the use of at-large methods of election for County Commissioner districts had the effect of diluting Latino voters from being able to elect candidates of choice. CP 1-18. To remedy the vote dilution, Latino Voters requested that the trial court order single-member district elections for County Commissioner seats. *Id.*

Gimenez's counsel was initially retained by one of the named defendants in the suit, County Commissioner Clint Didier, for the purpose of directly challenging the WVRA's constitutionality. *See* CP 444 ("Commissioner Didier

announced that the UCLA firm is suing [] County... Commissioner Didier has hired Joel Ard to represent him personally.”). Commissioner Didier ardently opposed imposition of single member districts throughout the notice period and the litigation.² Latino Voters opposed Commissioner Didier’s intervention given that he was already a party to the case and Ard filed an intervention on behalf of another County citizen, Gimenez. *See* CP 260-66.

Before Gimenez intervened in the case, Latino Voters filed a motion for summary judgment that was uncontested by the County, as the County’s expert concluded that electoral conditions in the County violated the WVRA. *See* CP 168-257. The trial court granted summary judgment finding a violation of the WVRA. *See* CP 258-9.

Thereafter, at Commissioner Didier’s direction, the

² *See* County Commissioner’s Meeting (Jan. 11, 2022) from 1:01:30 to 1:03:32 (Commissioner Didier continued to push for at-large districting even after told that at-large districting would violate the Federal Voting Rights Act.)

Commission discharged its attorneys, retained counsel from a neighboring county, and filed a motion to vacate the summary judgment order. The County offered no new evidence and no new expert opinion. Despite this, the trial court vacated the partial summary judgment, which prevented Latino Voters from obtaining relief for the 2022 elections.³ No new trial date was scheduled, and no scheduling order was entered. Due to several unusual incidents, Latino Voters also filed a motion to transfer venue, which was not granted. CP 377-524.

In November 2021, Gimenez filed their motion for judgment on the pleadings challenging the WVRA's constitutionality. Gimenez also contested Latino Voters' standing. In response, Latino Voters filed a motion to dismiss for lack of subject matter jurisdiction because Gimenez was required, but failed, to notify the Washington Attorney General. CP 643-648. The motion for judgment on the pleadings was denied by the trial court. CP 678-681.

³ RCW 29A.92.(3)(a).

By written order, the trial court rejected all of Gimenez’s arguments, holding that (1) the WVRA was not repealed by implication by subsequent legislation; (2) the WVRA, as a remedial statute, grants standing to voters who are members of a race, color, or language minority group and is “not limited to those who are a minority within the specific county in question”; and (3) the WVRA does not violate the Washington or United States Constitutions. *Id.* In finding the WVRA constitutional, the court stated that, “Intervenor has failed to establish that there are no set of circumstances where the WVRA would be valid.” *Id.* at 680.⁴

Thereafter, the County again changed counsel and Latino Voters filed a motion to schedule a trial. A new trial date was set for May 11-17, 2022, after the deadline set by statute.⁵ Prior

⁴ The court’s order is also consistent with the Ninth Circuit’s precedent in *Higgins v. Becerra*, 786 Fed. Appx. 705 (9th Cir. 2019)(finding the California Voting Rights Act constitutional under the Equal Protection Clause of the Fourteenth Amendment.).

⁵ RCW 29A.92.100 (“In an action filed pursuant to this chapter, the trial court shall set a trial to be held no later than on year after the filing of a complaint, and shall set a discovery and motions calendar accordingly.”).

to trial, witnesses were deposed, and trial exhibits were exchanged. Gimenez, while included in correspondence, did not take part in any discovery, including the court-ordered pre-trial conference.

After extensive negotiations, the case settled. Under the terms of the settlement, the County agreed to implement single-member district based elections starting in 2024 while using the County's approved map. CP 1300-1304. The agreement also included the payment of some attorneys' fees. *Id.*

Unbeknownst to Latino Voters, Commissioner Didier, although voting in favor of the settlement in Commission public meetings, was simultaneously working with Gimenez and his counsel to subvert the settlement. Resp. Appx. A. at 12 (“Francis, Clint alerted me that you might be discussing settlement. I certainly don’t expect [my] client to stand in way of a favorable resolution...”) As part of this plan, Gimenez sought attorney’s fees from Latino Voters. *See* Resp. Appx. B, Ex. C at 2 (In an email communication to Plaintiffs, Gimenez’s

counsel stated, “While I note that I think I might legitimately tally other additional hours as responsive to that Motion, Mr. Gimenez will consider his concerns resolved for payment of \$9,850.”).

On May 9, 2022, the trial court entered an agreed order implementing the settlement terms. Gimenez appeared virtually at this hearing and tried to prevent the order’s entry. The trial court denied Gimenez’s motion for fees. Gimenez appealed to this Court.

IV. Grounds for Direct Review

This Court should grant direct review pursuant to RAP 4.2(a)(4) for the following reasons. First, this Court is the appropriate court to make the ultimate determination of the constitutionality of legislative enactments. Second, time is of the essence. Latino Voters and the County cannot wait to determine how and when to implement the new election system while this issue is in the Court of Appeals. Lastly, this Court must also determine if notice to the Attorney General under RCW

7.24.110, is required when a party challenges the constitutionality of Washington statutes and the proper interpretation of the attorneys' fees provision of the WVRA.

A. This Court is the Best Suited Court to Determine the Constitutionality of the WVRA

This Court is tasked with the role of interpreting the Washington Constitution. Indeed, this Court “is the final arbiter of the meaning of Washington statutory law.” *In re Petersen*, 138 Wn.2d 70, 80-81, 980 P.2d 1204 (1999). Here, the trial court ruled on the constitutionality of the WVRA and engaged in statutory interpretation. The trial court’s determinations, however, are not final. A determination by an intermediate Court of Appeal would also not provide final resolution to the presented issues. Only this Court can provide finality to legal questions presented by this case. As such, direct review is warranted under RAP 4.2(a)(4).

B. The Constitutionality of the WVRA Presents a Case of Broad Public Import that Requires Prompt and Ultimate Determination

Cases involving voting rights, elections, and the structure of local governments are urgent issues of fundamental rights and of broad public importance that require prompt and ultimate determination. *See Foster v. Sunnyside Valley Irr. Dist.*, 102 Wn.2d 395, 404, 687 P.2d 841 (1984). Elections are finite and every election that continues under a dilutive map harms voters. *See Garza v. Cty. of Los Angeles*, 918 F.2d 763, 772 (9th Cir. 1990) (finding that Latinos in Los Angeles County suffered an injury of intentional vote dilution that “has been getting progressively worse, because each election has deprived Hispanics of more and more of the power accumulated through increased population.”).

Recognizing the impact that voting related cases have on the public, this Court has granted direct review in cases involving legislative acts placing requirements on elective offices of local governmental bodies. *See Spokane Cnty. v. State*, 196 Wn.2d 79, 83, 469 P.3d 1173 (2020); *State ex rel. Royal v. Bd. of Yakima*

Cnty. Comm'rs, 123 Wn.2d 451, 455, 869 P.2d 56 (1994); *City of Seattle v. State*, 103 Wn.2d 663, 667, 694 P.2d 641 (1985).

This issue impacts not just impact Latino Voters in Franklin County, but all voters in Washington. Under the WVRA, school boards, city councils, and county commissions across the state are encouraged to voluntarily change their electoral systems to remedy vote dilution. RCW 29A.92.040.⁶

The resolution of this case is urgent. County elections under new voting systems will be taking place in 2024. The affected parties in this case, voters, and political subdivisions statewide, cannot wait months through the appeals process for resolution. Given the previous and current behavior of the County and its individual commissioners, the implementation of this settlement relies on the finality of a ruling by this Court upholding the

⁶ This WVRA provision has already influenced the Pasco School District #1, within Franklin County, to leave behind their at-large electoral system. *See Board of Directors Election System, PASCO SCHOOL DISTRICT #1*, <https://www.psd1.org/domain/2058> (last visited Jul. 9, 2022).

WVRA’s constitutionality before the May 2024 candidate qualifying period. Direct review is merited under RAP 4.2(a)(4).

C. RCW 7.24.110 Requires Notice to the Attorney General When the Constitutionality of a Legislative Enactment is Challenged

Generally, if the language of a statute is clear, its meaning “is to be derived from the language of the statute alone.” *Cherry v. Municipality of Metro. Seattle*, 116 Wn.2d 794, 799, 808 P.2d 746 (1991). RCW 7.24.110, states:

When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding. In any proceeding which involves the validity of a municipal ordinance or franchise, such municipality shall be made a party, and shall be entitled to be heard, and if the statute, ordinance or franchise is alleged to be unconstitutional, the attorney general shall also be served with a copy of the proceeding and be entitled to be heard.

The fact that this provision only applies to matters under the Uniform Declaratory Judgment Act (UDJA), RCW 7.24.110, is not clear from a plain reading of the statute and rather seems to broadly apply to any constitutional challenge to a statute.

Indeed, a lower court of appeals described the statutory provision as “confusingly” worded. *Matter of Adoption of C.W.S.*, 196 Wn. App. 1064 at *4 (2016). Other Courts of Appeals opinions have had conflicting guidance regarding this notice provision. *See Camp Fin., LLC v. Brazington*, 133 Wn. App. 156, 160–61, 135 P.3d 946 (2006)(“A plaintiff who seeks to have a statute declared unconstitutional must provide the Attorney General with notice of the action. RCW 7.24.110.”); *Jackson v. Quality Loan Serv. Corp.*, 186 Wn. App. 838, 846, 347 P.3d 487 (2015)(dismissal of constitutional claims challenging the facial constitutionality of a statute is appropriate where the Attorney General has not been notified).

Regardless of the procedural maneuvering of Gimenez to challenge that law, Gimenez failed to notify the Attorney General of his constitutional challenge to the WVRA. This Court should address that failure.⁷

⁷ There is also a question of whether Gimenez is an “aggrieved party” under RAP 3.1.

D. A Named Defendant That Induces the Intervention of a Third Party Should be Responsible for Attorney Fees and Costs Associated with the Prevailing Party

The WVRA permits the award of attorney fees to the prevailing plaintiff or plaintiffs. *See* RCW 29A.92.130. Here, Gimenez is undoubtedly responsible for any attorney fees that Latino Voters may be awarded. The responsibility of Commissioner Didier and the County, however, are unclear. Commissioner Didier has induced the intervention of Gimenez, and the County's litigation strategy has allowed Commissioner Didier's intervention as a private citizen. *See* CP 344. Both should be responsible for fees arising from this appeal.

The attorney fee provision in the WVRA, and how such provision ought to be enforced, has never been addressed by *any* court and is a matter of first impression. The question of responsibility and enforcement of fees is an issue meriting direct review by this Court under RAP 4.2(a)(4).

V. Conclusion

In passing the WVRA, the Legislature enacted monumental voting rights protections to effectuate the guarantees in the Washington Constitution. Latino Voters suffered from vote dilution due to the use of the at-large method of election for County Commissioner. Latino Voters ask this Court to grant direct review under RAP 4.2(a), to ultimately and urgently resolve key issues for fair elections in our state.

* * *

This document contains 2,350 words, excluding the parts of the document exempted from the word count by RAP 18.17.

July 11, 2022

Respectfully submitted,

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Certificate of Service

I hereby certify under penalty of perjury under the laws of the United State of America that on July 11, 2022, I filed the foregoing Brief, Case No. 100999-2, through the Washington State Appellate Courts' Secure Portal which gives electronic notice of the filing to all active parties in the case.

Respectfully submitted,

/s/ Sonni Waknin

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RESPONDENTS,

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AND

JAMES GIMENEZ,

APPELLANT.

RESPONDENTS APPENDIX FOR ANSWER TO STATEMENT OF
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APPENDIX A

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF FRANKLIN

GABRIEL PORTUGAL, BRANDON PAUL
MORALES, JOSE TRINIDAD CORRAL, and
LEAGUE OF UNITED LATIN AMERICAN
CITIZENS,

Plaintiffs,

v.

FRANKLIN COUNTY, CLINT DIDIER,
ROCKY MULLEN, BRAD PECK, in their
official capacities as members of the Franklin
County Board of Commissioners,

Defendants.

NO. 21-2-50210-11

DECLARATION OF FRANCIS S.
FLOYD IN SUPPORT OF
DEFENDANTS' RESPONSE IN
OPPOSITION TO INTERVENOR
GIMINEZ'S MOTION FOR
SANCTIONS UNDER CR 11

I, Francis S. Floyd, am counsel of record for Franklin County, Clint Didier, Rocky Mullen, and Brad Peck (hereinafter collectively referred to as "Defendants"), am over the age of 18 years and competent to testify to the matters set forth below and do so based upon my personal knowledge.

1. Attached as Exhibit 1 to this declaration is a true and correct copy of a May 3, 2022 email sent by my legal assistant to Mr. Ard which included the signed CR 2A agreement between the Plaintiffs and the County.

1 2. Attached as Exhibit 2 to this declaration is a true and correct copy of the signed
2 CR 2A agreement between the Plaintiffs and the County included with the May 3, 2022 email.

3 3. Attached as Exhibit 3 to this declaration is a true and correct copy of an email
4 exchange on April 27, 2022 and May 2, 2022 between myself and Mr. Ard discussing that Mr.
5 Ard was concerned with how the settlement would affect his client’s appellate rights.

6 4. Attached as Exhibit 4 to this declaration is a true and correct copy of a May 3,
7 2022 email sent by Mr. Ard in which he states his client is “grudgingly willing to waive
8 appellate rights so that the sought-for dismissal with prejudice can be entered.”
9

10 SIGNED at Seattle, Washington this 6th day of May, 2022.

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13 /s/ Francis S. Floyd
14 Francis S. Floyd, WSBA No. 10642
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1 **DECLARATION OF SERVICE**

2 Pursuant to RCW 9A.72.085, I declare under penalty of perjury and the laws of the
3 State of Washington that on the below date, I delivered a true and correct copy of *the foregoing*
4 via the method indicated below to the following parties:

5 Edwardo Morfin *Counsel for Plaintiffs* [] Via Messenger
6 MORFIN LAW FIRM, PLLC [X] Via Email
7 7325 W. Deschutes Avenue, Suite A [] Via Facsimile
8 Kennewick, WA 99336 [] Via U.S. Mail
Eddie@MorfinLawFirm.com
Zaida@MorfinLawFirm.com

9 Joel B. Ard *Counsel for James* [] Via Messenger
10 ARD LAW GROUP *Giminez* [X] Via Email
11 PO Box 11633 [] Via Facsimile
12 Bainbridge Island, WA 98110 [] Via U.S. Mail
lrvlaw@sbcglobal.net

13 Chad W. Dunn *Counsel for Plaintiffs* [] Via Messenger
14 Sonni Waknin [X] Via Email
15 UCLA VOTING RIGHTS PROJECT [] Via Facsimile
16 3250 Public Affairs Building [] Via U.S. Mail
Los Angeles, CA 90065
chad@uclavrp.org
somni@uclavrp.org

17 Shawn Sant *Counsel for Defendants* [] Via Messenger
18 FRANKLIN COUNTY [X] Via Email
19 PROSECUTOR’S OFFICE [] Via Facsimile
20 1016 N. 4th Avenue [] Via U.S. Mail
Pasco, WA 99301
ssant@co.franklin.wa.us

21 DATED this 6th day of May, 2022.

22
23 *s/ Sean C. Moore*
24 Sean C. Moore, Legal Assistant
25
26
27

Exhibit 1

From: Joel Ard <joel@ard.law>
Sent: Tuesday, May 3, 2022 9:09 AM
To: Sean Moore <Sean@floyd-ringer.com>
Cc: Francis S. Floyd <ffloyd@floyd-ringer.com>; Amanda Daylong <adaylong@floyd-ringer.com>
Subject: RE: Portugal v. Franklin County | Signed CR 2A agreement

Thanks.

Joel B. Ard | Attorney | 206.701.9243 | www.ard.law

This message may contain privileged or confidential information. If you received this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments.

From: Sean Moore <Sean@floyd-ringer.com>
Sent: Tuesday, May 3, 2022 09:03
To: Joel Ard <joel@ard.law>
Cc: Francis S. Floyd <ffloyd@floyd-ringer.com>; Amanda Daylong <adaylong@floyd-ringer.com>
Subject: Portugal v. Franklin County | Signed CR 2A agreement

Good morning,

Pursuant to Francis's instructions, here is the signed CR 2A agreement in this matter.

Thank you,

Sean C. Moore | **FP&R**
Legal Assistant

F|P&R Pacific Northwest
Trial Attorneys

3101 Western Ave Suite 400 Seattle, WA 98121
p: (206) 441.4455 **f:** (206) 441.8484
e: sean@floyd-ringer.com

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Exhibit 2

CR 2A SETTLEMENT AGREEMENT
Portugal, et al. v. Franklin County, et al.
Franklin County Cause No. 21-2-50210-11

This CR 2A Agreement (“Settlement Agreement”) is made between the following: Gabriel Portugal, Brandon Pail Morales, Jose Trinidad Corral, and League of Latin American Citizens (“Plaintiffs”) and Franklin County, and the members of the Board of Commissioners of Franklin County, Clint Didier, Rocky Mullen, and Brad Peck, acting in their official capacities (“Defendants”), and is effective April 29, 2022. Together the settling parties are referred to herein as the “Parties” or individually as “Party.”

WHEREAS, Plaintiffs filed suit against Defendants alleging violations of the Washington Voting Rights Act, Chapter RCW 29A.92 (“Lawsuit”).

WHEREAS, the Parties now desire to enter into a binding agreement regarding the resolution of any and all claims asserted in the Lawsuit, and to forever settle, resolve, and compromise, any and all claims, demands, damages, actions, causes of action or suits of any kind or nature whatsoever as enumerated under Chapter 29A.92 RCW, relating to Plaintiffs’ claims and allegations, including attorney’s fees and costs.

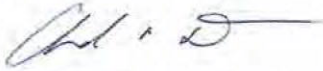
WHEREAS, Plaintiffs allege that they have incurred approximately \$1,420,000 in attorney’s fees and costs.

NOW THEREFORE, in consideration of the payments described herein and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

- (1) Beginning with the 2024 election cycle, all future elections for the office of Franklin County Commissioner will be conducted under a single-member district election system for both primary and general elections;
 - a. For the 2022 general election for County Commissioner for District 3 (incumbent Clint Didier), the general election will proceed as an at-large election, and the member elected to the seat for District 3 in 2022 will serve a four-year term;
 - b. For the 2026 general election for County Commissioner for District 3, the seat will be elected for the first time as a single-member district;
- (2) The first general election for single-member district elections for County Commissioner will be held on November 5, 2024, for Districts 1 (incumbent Brad Peck) and 2 (incumbent Rocky Mullen);
 - a. The commissioner seats for Districts 1 and 2 will be elected to four-year terms;
- (3) The district map for single-member districts shall be Option 2 as approved and adopted by the Board of Commissioners on December 28, 2021;
- (4) Plaintiffs have agreed to reduce their attorney’s fees and costs from \$1,420,000 to \$375,000 paid in three annual installments of \$125,000 beginning August 1, 2022 and ending August 1, 2024, with no accrual of interest.
 - i. One Hundred Twenty-Five Thousand Dollars and No Cents (\$125,000) on or before August 1, 2022;
 - ii. One Hundred Twenty-Five Thousand Dollars and No Cents (\$125,000) on or before August 1, 2023;
 - iii. One Hundred Twenty-Five Thousand Dollars and No Cents (\$125,000) on or before August 1, 2024;
- (5) The Parties shall present an Order to the Court dismissing the case with prejudice and consistent with this CR 2A agreement.
- (6) The Parties shall also strike all pending hearings and notify the court of resolution of the dispute between them

THE FOREGOING REPRESENTS THE ESSENTIAL TERMS OF SETTLEMENT
NEGOTIATED AND AGREED TO BY THE UNDERSIGNED PARTIES:

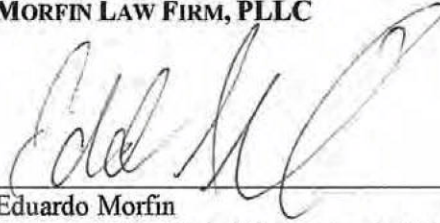
UCLA VOTING RIGHTS PROJECT



Chad Dunn, UCLA Voting Rights Project
Attorney For Plaintiffs Portugal, Morales,
Corral, and League of United Latin American
Citizens

Date: 05/01/2022

MORFIN LAW FIRM, PLLC



Eduardo Morfin
Attorney For Plaintiffs Portugal, Morales,
Corral, and League of United Latin American
Citizens

Date: 5/01/2022

FLOYD, PFLUEGER, & RINGER, P.S.



Francis S. Floyd
Attorney for Defendants Franklin County,
Franklin County Board of Commissioners, and
Commissioners Didier, Peck, and Mullen

Date: 4/30/2022

FRANKLIN COUNTY



Shawn Sant
Franklin County Prosecutor

Date: 4/30/2022

Exhibit 3

From: Francis S. Floyd
Sent: Monday, May 2, 2022 8:38 PM
To: Joel Ard <joel@ard.law>
Cc: Amanda Daylong <adaylong@floyd-ringer.com>; Danielle Smith <dsmith@floyd-ringer.com>
Subject: RE: Portugal v. Franklin

If your client wants to join the settlement I can ask the plaintiffs to include him in the dismissal. I don't agree it is common sense because a person could intervene with adverse or different interests than the named parties and block settlement. I believe an intervenor's rights are derivative and not independent of the named parties. I have someone doing the research tonight. I am not feeling well and am going to bed early. I have a long drive tomorrow. Give me a call on my cell phone tomorrow after 7:30 if you would like to discuss.

Francis S. Floyd
Floyd, Pflueger & Ringer, P.S.
200 W. Thomas Street, Suite 500
Seattle, WA 98119-4296
206-441-4455
206-601-0434 cell
FFloyd@floyd-ringer.com
www.floyd-ringer.com

From: Joel Ard <joel@ard.law>
Sent: Monday, May 2, 2022 7:38 PM
To: Francis S. Floyd <ffloyd@floyd-ringer.com>
Cc: Amanda Daylong <adaylong@floyd-ringer.com>
Subject: Re: Portugal v. Franklin

How do you propose to settle and dismiss a case without agreement of all parties? I've never heard the like. I told you before I don't intend to stand in the way but Mr. Gimenez will remain a party adverse to Portugal if he does not settle. I assume your clients want finality as do the plaintiffs. You can't agree to dismiss Mr. Gimenez. He will probably agree if asked. But no one has asked.

I'll waste some time doing research for "authority" for this common sense position if you want, but I generally treat co-counsel with sufficient respect not to ask them for case citations in support of their desire to cooperate. Your mileage may vary.

Joel B. Ard | Attorney | 206.701.9243

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From: Francis S. Floyd <ffloyd@floyd-ringer.com>
Sent: Monday, May 2, 2022 7:30:50 PM
To: Joel Ard <joel@ard.law>
Cc: Amanda Daylong <adaylong@floyd-ringer.com>
Subject: RE: Portugal v. Franklin

The settlement agreement does not mention or include your client and only involves the County and the 3 commissioners in their official capacities. What is the authority to support your contention that your client needs to be included in the settlement?

Francis S. Floyd
Floyd, Pflueger & Ringer, P.S.
200 W. Thomas Street, Suite 500
Seattle, WA 98119-4296
206-441-4455
206-601-0434 cell
FFloyd@floyd-ringer.com
www.floyd-ringer.com

From: Joel Ard <joel@ard.law>
Sent: Monday, May 2, 2022 7:05 PM
To: Francis S. Floyd <ffloyd@floyd-ringer.com>
Cc: Amanda Daylong <adaylong@floyd-ringer.com>
Subject: RE: Portugal v. Franklin

Francis,

Clint alerted me that a CR2A has been circulated. Mr. Gimenez is a party to the lawsuit, and will need to be involved in a settlement.

Yours,

Joel Ard

Joel B. Ard | Attorney | 206.701.9243 | www.ard.law

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From: Joel Ard
Sent: Wednesday, April 27, 2022 11:56

To: Francis S. Floyd <ffloyd@floyd-ringer.com>

Subject: Portugal v. Franklin

Francis,

Clint alerted me that you might be discussing settlement. I certainly don't expect client to stand in the way of a favorable resolution, but I expect the UCLA folks might forget that he is a party, not an amici, and would have to also agree if, for example, they wanted him to abandon his right to appeal the adverse 12(c) ruling. I don't know that there's any action item in this, but please let me know if you need anything from me.

Joel

Joel B. Ard | Attorney | 206.701.9243 | www.ard.law

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Exhibit 4

From: Joel Ard <joel@ard.law>
Sent: Tuesday, May 3, 2022 9:26 AM
To: Francis S. Floyd <ffloyd@floyd-ringer.com>
Cc: Amanda Daylong <adaylong@floyd-ringer.com>
Subject: RE: Portugal v. Franklin County | Signed CR 2A agreement

Francis,

James is (grudgingly) willing to waive appellate rights so that the sought-for dismissal with prejudice can be entered. I am pretty certain that as an independent party with a position that was different from, albeit not adverse to, Franklin, we have to be included for the dismissal of all claims with prejudice to be entered.

At the moment, that agreement would also involve waiving what we view as a meritorious CR 11 motion responding to a frivolous motion to dismiss that Portugal filed then never noted for hearing. We are both a little miffed at seeing them cash in to the mid-six figures after sticking us with significant expenses to address a motion they filed that was so frivolous and baseless that after seeing our Opposition, they never bothered to ask a judge to look at it. We've held off filing that motion since December after discussions with your former associate, to avoid rocking the boat from back when it appeared they were forgetting to litigate. I'm not really putting an action item out there, but I'd like your thoughts on how we might proceed.

Joel

Joel B. Ard | Attorney | 206.701.9243 | www.ard.law

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From: Sean Moore <Sean@floyd-ringer.com>
Sent: Tuesday, May 3, 2022 09:03
To: Joel Ard <joel@ard.law>
Cc: Francis S. Floyd <ffloyd@floyd-ringer.com>; Amanda Daylong <adaylong@floyd-ringer.com>
Subject: Portugal v. Franklin County | Signed CR 2A agreement

Good morning,

Pursuant to Francis's instructions, here is the signed CR 2A agreement in this matter.

Thank you,

Sean C. Moore | FP&R
Legal Assistant



3101 Western Ave Suite 400 Seattle, WA 98121

p: (206) 441.4455 **f:** (206) 441.8484

e: sean@floyd-ringer.com

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APPENDIX B

1
2
3
4
5 STATE OF WASHINGTON
FRANKLIN COUNTY SUPERIOR COURT
6

7 GABRIEL PORTUGAL, BRANDON PAUL
8 MORALES, JOSE TRINIDAD CORRAL, and
LEAGUE OF UNITED LATIN AMERICAN
CITIZENS,

9 *Plaintiffs,*

10 v.

11 FRANKLIN COUNTY, a Washington
12 Municipal entity, and CLINT DIDIER,
13 RODNEY J. MULLIN, and LOWELL J.
PECK, in their official capacities as members of
the Franklin County Board of Commissioners,

14 *Defendants.*

No. 21-2-50210-11

ARD DECLARATION ISO OPPOSITION
TO MOTION TO SHORTEN TIME

15
16 I, Joel Ard, declare as follows:

17 1. I am over 18 years old and have personal knowledge of the contents of this
18 Declaration.

19 2. I am counsel to proposed Intervenor James Gimenez in this matter.

20 3. Attached hereto as Exhibit A is a true and correct copy of an email I received from
21 Sean Moore of the Floyd, Pflueger law firm at 9:03 am on Tuesday, May 3.

22 4. Prior to receipt of that email, I had been told that settlement discussions were
23 ongoing, but had not received a copy of the proposed settlement, nor had I or Mr. Gimenez been
24 invited to join those discussions. *See, e.g.*, Exhibit B, a true and correct copy of an email I sent Mr.
25 Floyd at 7:05 pm Monday, May 2.

26 5. Attached hereto as Exhibit C is a true and correct copy of an email I received from
27 Mr. Morfin, counsel to Plaintiffs, at 9:52 am today, Thursday, May 5, 2022, containing the full

1 discussion between counsel regarding Mr. Gimenez' CR 11 demands as well as his objection to the
2 proposed fee award. This includes the full thread of emails between counsel that began with the
3 single email filed by Mr. Morfin.

4 6. Beginning immediately upon receipt of Plaintiffs' Motion to Dismiss Intervenor-
5 Defendant on December 9, 2021, I had conversations with counsel for co-defendant Franklin
6 County regarding the sanctionable nature of that pleading. *See, e.g.*, Exhibits D, E, F, G, and H
7 (true and correct copies of emails between myself and counsel for Franklin County).

8 7. After Plaintiffs struck the hearing on the Motion to Dismiss, counsel for co-
9 defendant Franklin County repeatedly asked me, as counsel for Mr. Gimenez, to delay filing any
10 CR 11 Motion, a request to which Mr. Gimenez agreed.

11 I swear under penalty of perjury of the laws of the state of Washington that the foregoing is
12 true and correct.

13 ///

14 May 5, 2022.

17 ARD LAW GROUP PLLC

18
19 By:



20 Joel B. Ard, WSBA # 40104
21 P.O. Box 11633
22 Bainbridge Island, WA 98110
23 206.701.9243
24 Joel@Ard.law
25 Attorneys for James Gimenez
26
27

Ex.

A

From: [Sean Moore](#)
To: [Joel Ard](#)
Cc: [Francis S. Floyd](#); [Amanda Daylong](#)
Subject: Portugal v. Franklin County | Signed CR 2A agreement
Date: Tuesday, May 3, 2022 09:03:39
Attachments: [image001.png](#)
[2022-05-01 - Franklin County Signed CR2A Agreement.pdf](#)

Good morning,

Pursuant to Francis's instructions, here is the signed CR 2A agreement in this matter.

Thank you,

Sean C. Moore | **FP&R**
Legal Assistant

F|P|&R *Pacific Northwest
Trial Attorneys*

3101 Western Ave Suite 400 Seattle, WA 98121
p: (206) 441.4455 **f:** (206) 441.8484
e: sean@floyd-ringer.com

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CR 2A SETTLEMENT AGREEMENT
Portugal, et al. v. Franklin County, et al.
Franklin County Cause No. 21-2-50210-11

This CR 2A Agreement (“Settlement Agreement”) is made between the following: Gabriel Portugal, Brandon Pail Morales, Jose Trinidad Corral, and League of Latin American Citizens (“Plaintiffs”) and Franklin County, and the members of the Board of Commissioners of Franklin County, Clint Didier, Rocky Mullen, and Brad Peck, acting in their official capacities (“Defendants”), and is effective April 29, 2022. Together the settling parties are referred to herein as the “Parties” or individually as “Party.”

WHEREAS, Plaintiffs filed suit against Defendants alleging violations of the Washington Voting Rights Act, Chapter RCW 29A.92 (“Lawsuit”).

WHEREAS, the Parties now desire to enter into a binding agreement regarding the resolution of any and all claims asserted in the Lawsuit, and to forever settle, resolve, and compromise, any and all claims, demands, damages, actions, causes of action or suits of any kind or nature whatsoever as enumerated under Chapter 29A.92 RCW, relating to Plaintiffs’ claims and allegations, including attorney’s fees and costs.

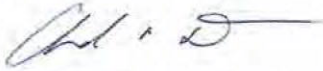
WHEREAS, Plaintiffs allege that they have incurred approximately \$1,420,000 in attorney’s fees and costs.

NOW THEREFORE, in consideration of the payments described herein and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

- (1) Beginning with the 2024 election cycle, all future elections for the office of Franklin County Commissioner will be conducted under a single-member district election system for both primary and general elections;
 - a. For the 2022 general election for County Commissioner for District 3 (incumbent Clint Didier), the general election will proceed as an at-large election, and the member elected to the seat for District 3 in 2022 will serve a four-year term;
 - b. For the 2026 general election for County Commissioner for District 3, the seat will be elected for the first time as a single-member district;
- (2) The first general election for single-member district elections for County Commissioner will be held on November 5, 2024, for Districts 1 (incumbent Brad Peck) and 2 (incumbent Rocky Mullen);
 - a. The commissioner seats for Districts 1 and 2 will be elected to four-year terms;
- (3) The district map for single-member districts shall be Option 2 as approved and adopted by the Board of Commissioners on December 28, 2021;
- (4) Plaintiffs have agreed to reduce their attorney’s fees and costs from \$1,420,000 to \$375,000 paid in three annual installments of \$125,000 beginning August 1, 2022 and ending August 1, 2024, with no accrual of interest.
 - i. One Hundred Twenty-Five Thousand Dollars and No Cents (\$125,000) on or before August 1, 2022;
 - ii. One Hundred Twenty-Five Thousand Dollars and No Cents (\$125,000) on or before August 1, 2023;
 - iii. One Hundred Twenty-Five Thousand Dollars and No Cents (\$125,000) on or before August 1, 2024;
- (5) The Parties shall present an Order to the Court dismissing the case with prejudice and consistent with this CR 2A agreement.
- (6) The Parties shall also strike all pending hearings and notify the court of resolution of the dispute between them

THE FOREGOING REPRESENTS THE ESSENTIAL TERMS OF SETTLEMENT
NEGOTIATED AND AGREED TO BY THE UNDERSIGNED PARTIES:

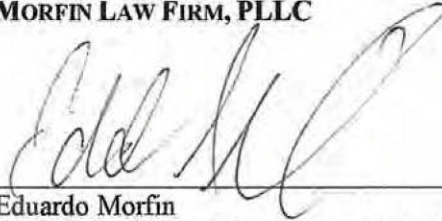
UCLA VOTING RIGHTS PROJECT



Chad Dunn, UCLA Voting Rights Project
Attorney For Plaintiffs Portugal, Morales,
Corral, and League of United Latin American
Citizens

Date: 05/01/2022

MORFIN LAW FIRM, PLLC



Eduardo Morfin
Attorney For Plaintiffs Portugal, Morales,
Corral, and League of United Latin American
Citizens

Date: 5/01/2022

FLOYD, PFLUEGER, & RINGER, P.S.



Francis S. Floyd
Attorney for Defendants Franklin County,
Franklin County Board of Commissioners, and
Commissioners Didier, Peck, and Mullen

Date: 4/30/2022

FRANKLIN COUNTY



Shawn Sant
Franklin County Prosecutor

Date: 4/30/2022

Ex.

B

Joel Ard

From: Joel Ard
Sent: Monday, May 2, 2022 19:05
To: Francis S. Floyd
Cc: adaylong@floyd-ringer.com
Subject: RE: Portugal v. Franklin

Francis,

Clint alerted me that a CR2A has been circulated. Mr. Gimenez is a party to the lawsuit, and will need to be involved in a settlement.

Yours,

Joel Ard

Joel B. Ard | Attorney | 206.701.9243 | www.ard.law

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From: Joel Ard
Sent: Wednesday, April 27, 2022 11:56
To: Francis S. Floyd <ffloyd@floyd-ringer.com>
Subject: Portugal v. Franklin

Francis,

Clint alerted me that you might be discussing settlement. I certainly don't expect client to stand in the way of a favorable resolution, but I expect the UCLA folks might forget that he is a party, not an amici, and would have to also agree if, for example, they wanted him to abandon his right to appeal the adverse 12(c) ruling. I don't know that there's any action item in this, but please let me know if you need anything from me.

Joel

Joel B. Ard | Attorney | 206.701.9243 | www.ard.law

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Ex.

C

Joel Ard

From: Eddie@MorfinLawFirm.com
Sent: Thursday, May 5, 2022 09:52
To: Joel Ard
Cc: chad@uclavrp.org; 'Sonni Waknin'
Subject: RE: Portugal et al v. Franklin County et al- Joint Order Approving Settlement and Entering Final Judgment

Mr. Ard,

I understand your lament, with regard to no longer being able to electronically file, and I was going to offer to file your motion for you. Unfortunately for you, I do not file frivolous motions (CR 11 prohibits it).

Thanks.

Best regards,

Edwardo (Eddie) Morfin
Attorney at Law, Morfin Law Firm
(509) 380-9999 | morfinlawfirm.com



7325 W. Deschutes Avenue, Suite A - **(Please note that our office has moved to Suite A)**
Kennewick, WA 99336

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From: Joel Ard <joel@ard.law>
Sent: Thursday, May 5, 2022 7:54 AM
To: Eddie@MorfinLawFirm.com
Subject: RE: Portugal et al v. Franklin County et al- Joint Order Approving Settlement and Entering Final Judgment

Mr. Morfin,

I note that I tallied the three items incorrectly; they sum to \$9,860. Given that it was my error, I stand by my initial number. However, it must be accepted promptly. Because Franklin County

discontinued electronic filing, I will have to start the process of delivery of the motion and associated papers for filing at noon today, unless we have resolved the issue without further court involvement. If I do proceed, I will ask the Court on Monday to delay entering the settlement in light of the lack of timely notice given to Mr. Gimenez, and seek sufficient time to allow both consideration of the CR 11 Motion as well as to hear my client's objections to the proposed settlement. Now that he has had sufficient time for substantive review, he has concerns which we were unable to raise yesterday, specifically the size of the fee award paid out of taxpayer funds to plaintiffs' counsel. Despite the validity of those concerns, and the lack of a meaningful opportunity to raise them earlier, our offer remains open until it is rejected or until noon today, whichever is earlier.

Yours,

Joel Ard

Joel B. Ard | Attorney | 206.701.9243 | www.ard.law

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From: Joel Ard

Sent: Wednesday, May 4, 2022 16:09

To: Eddie@MorfinLawFirm.com

Subject: RE: Portugal et al v. Franklin County et al- Joint Order Approving Settlement and Entering Final Judgment

Mr. Morfin,

Thank you for your call. In answer to your inquiry, I confirm that Mr. Gimenez seeks only the fees and costs associated with my time spent and costs incurred responding to the Motion to Dismiss that Plaintiffs filed. That amounts to not less than 18.9 hours of my time at my discounted rate to him of \$500/ hr, plus a \$396 expense paid to Alaska Airlines for a ticket to the hearing you struck, and one \$14 filing fee for electronic filing and bench copies of the Opposition. While I note that I think I might legitimately tally other additional hours as responsive to that Motion, Mr. Gimenez will consider his concerns resolved for payment of \$9,850.

Yours,

Joel Ard

Joel B. Ard | Attorney | 206.701.9243 | www.ard.law

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From: Joel Ard
Sent: Wednesday, May 4, 2022 15:37
To: Eddie@MorfinLawFirm.com; 'Zaida Cortez' <zaida@morfinlawfirm.com>; 'Bernadette Reyes' <bernadette@uclavrp.org>; 'Sonni Waknin' <sonni@uclavrp.org>; 'Gwen Kelly' <gwen@uclavrp.org>
Cc: 'Francis S. Floyd' <ffloyd@floyd-ringer.com>; 'Amanda Daylong' <adaylong@floyd-ringer.com>; 'Sean Moore' <Sean@floyd-ringer.com>; 'Shawn Sant' <ssant@co.franklin.wa.us>; civil@co.franklin.wa.us
Subject: RE: Portugal et al v. Franklin County et al- Joint Order Approving Settlement and Entering Final Judgment

Counsel to all parties to this matter have been aware for months that Mr. Gimenez considered the Motion to Dismiss as sanctionable under CR 11. If his legitimate concerns about the costs and fees he was forced to incur in Opposing that Motion are not addressed before noon tomorrow, I will file the attached CR 11 Motion, and appear on the 9th to oppose dismissal until the Motion is resolved. I note that, in my view, this issue could have, and should have, been addressed in settlement discussions in which all parties should have been asked to take part.

I look forward to hearing from Plaintiffs' counsel this evening.

Joel

Joel B. Ard | Attorney | 206.701.9243 | www.ard.law

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From: Eddie Morfin <eddie@morfinlawfirm.com>
Sent: Wednesday, May 4, 2022 14:02
To: Joel Ard <joel@ard.law>
Cc: 'Francis S. Floyd' <ffloyd@floyd-ringer.com>; 'Amanda Daylong' <adaylong@floyd-ringer.com>; 'Bernadette Reyes' <bernadette@uclavrp.org>; 'Sonni Waknin' <sonni@uclavrp.org>; 'Gwen Kelly' <gwen@uclavrp.org>; 'Sean Moore' <Sean@floyd-ringer.com>; 'Shawn Sant' <ssant@co.franklin.wa.us>; 'Zaida Cortez' <zaida@morfinlawfirm.com>; civil@co.franklin.wa.us
Subject: RE: Portugal et al v. Franklin County et al- Joint Order Approving Settlement and Entering Final Judgment

Mr. Ard,

You are welcome to join us at the May 9 hearing.

Thanks.

Best regards,

Edwardo (Eddie) Morfin
Attorney at Law, Morfin Law Firm
(509) 380-9999 | morfinlawfirm.com



7325 W. Deschutes Avenue, Suite A - **(Please note that our office has moved to Suite A)**
Kennewick, WA 99336

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From: Joel Ard <joel@ard.law>
Sent: Wednesday, May 4, 2022 1:45 PM
To: Eddie@MorfinLawFirm.com
Cc: Francis S. Floyd <ffloyd@floyd-ringer.com>
Subject: RE: Portugal et al v. Franklin County et al- Joint Order Approving Settlement and Entering Final Judgment

Mr. Morfin,

You failed to satisfy notice obligations by serving me at 1:40 pm with a motion that was scheduled to be heard at 1 pm. You, your co-counsel, and your client need to discuss with me what steps need to be taken so that my client does not seek to overturn any relief granted to this improperly presented motion. I will seek to vindicate my client's interests by motion practice if you do not contact me to resolve this issue.

Yours,

Joel Ard

Joel B. Ard | Attorney | 206.701.9243 | www.ard.law

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From: Eddie Morfin <eddie@morfinlawfirm.com>
Sent: Wednesday, May 4, 2022 13:40
To: Joel Ard <joel@ard.law>
Subject: FW: Portugal et al v. Franklin County et al- Joint Order Approving Settlement and Entering Final Judgment
Importance: High

Mr. Ard,

Attached please find the Note for Motion, Motion to Shorten Time, and Declaration in Support. It appears that I inadvertently left you off the previous email.

Thanks.

Best regards,

Edwardo (Eddie) Morfin
Attorney at Law, Morfin Law Firm
(509) 380-9999 | morfinlawfirm.com



7325 W. Deschutes Avenue, Suite A - (Please note that our office has moved to Suite A)
Kennewick, WA 99336

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From: Eddie Morfin <eddie@morfinlawfirm.com>
Sent: Wednesday, May 4, 2022 12:21 PM
To: 'Sonni Waknin' <sonni@uclavrp.org>; 'Amanda Daylong' <adaylong@floyd-ringer.com>
Cc: 'Bernadette Reyes' <bernadette@uclavrp.org>; 'Francis S. Floyd' <ffloyd@floyd-ringer.com>; 'Gwen Kelly' <gwen@uclavrp.org>; 'Sean Moore' <Sean@floyd-ringer.com>; 'Shawn Sant' <ssant@co.franklin.wa.us>; 'Zaida Cortez' <zaida@morfinlawfirm.com>; 'civil@co.franklin.wa.us' <civil@co.franklin.wa.us>
Subject: RE: Portugal et al v. Franklin County et al- Joint Order Approving Settlement and Entering Final Judgment
Importance: High

Everyone,

Attached please find the Motion to Shorten Time that I will be presenting at ex parte today at 1:00.

Thanks.

Best regards,

Edwardo (Eddie) Morfin
Attorney at Law, Morfin Law Firm
(509) 380-9999 | morfinlawfirm.com



7325 W. Deschutes Avenue, Suite A - **(Please note that our office has moved to Suite A)**
Kennewick, WA 99336

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From: Sonni Waknin <sonni@uclavrp.org>

Sent: Wednesday, May 4, 2022 9:54 AM

To: Amanda Daylong <adaylong@floyd-ringer.com>

Cc: Bernadette Reyes <bernadette@uclavrp.org>; Eddie@morfinlawfirm.com; Francis S. Floyd <ffloyd@floyd-ringer.com>; Gwen Kelly <gwen@uclavrp.org>; Sean Moore <Sean@floyd-ringer.com>; Shawn Sant <ssant@co.franklin.wa.us>; Zaida Cortez <zaida@morfinlawfirm.com>; civil@co.franklin.wa.us

Subject: Re: Portugal et al v. Franklin County et al- Joint Order Approving Settlement and Entering Final Judgment

Hi Amanda,

We prefer the same. We have to file a motion to shorten on the ex parte to be able to note the joint order on the docket for Monday.

On Wed, May 4, 2022 at 9:14 AM Amanda Daylong <adaylong@floyd-ringer.com> wrote:

We will agree to the Motion to Shorten Time, but the County would prefer that the Order and hearing be in open court rather than ex parte.

Amanda D. Daylong

Partner

Please note our new address below



Floyd, Pflueger & Ringer, P.S.

[3101 Western Avenue, Suite 400](#)

[Seattle, WA 98121](#)

Main: 206-441-4455

Direct: 206-269-2007

Mobile: 206-963-8313

adaylong@floyd-ringer.com

www.floyd-ringer.com

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From: Eddie@MorfinLawFirm.com <Eddie@MorfinLawFirm.com>

Sent: Wednesday, May 4, 2022 1:55 AM

To: Amanda Daylong <adaylong@floyd-ringer.com>; Francis S. Floyd <ffloyd@floyd-ringer.com>; Sean Moore <Sean@floyd-ringer.com>

Cc: 'Sonni Waknin' <sonni@uclavrp.org>; 'Gwen Kelly' <gwen@uclavrp.org>; 'Zaida Cortez' <zaida@morfinlawfirm.com>; 'Bernadette Reyes' <bernadette@uclavrp.org>; 'Shawn Sant' <ssant@co.franklin.wa.us>; civil@co.franklin.wa.us

Subject: RE: Portugal et al v. Franklin County et al- Joint Order Approving Settlement and Entering Final Judgment

Importance: High

Ms. Daylong and Mr. Floyd,

I plan on filing a Motion to Shorten Time tomorrow and plan on it being heard at ex parte, to set a Motion for Entry of Judgment on May 9, 2022, so that we can strike our trial set to start May 11.

Will you stipulate to the Motion to Shorten Time, to hear the Motion for Entry of Judgment on May 9?

I have attached the draft Motion for your review.

Thanks.

Best regards,

Edwardo (Eddie) Morfin

Attorney at Law, Morfin Law Firm

(509) 380-9999 | morfinlawfirm.com



[7325 W. Deschutes Avenue, Suite A](#) - (Please note that our office has moved to Suite A)

Kennewick, WA 99336

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From: Sonni Waknin <sonni@uclavrp.org>
Sent: Tuesday, May 3, 2022 5:09 PM
To: Amanda Daylong <adaylong@floyd-ringer.com>; to: chad@uclavrp.org <chad@uclavrp.org>;
Eddie@morfinlawfirm.com; Bernadette Reyes <bernadette@uclavrp.org>; Francis S. Floyd <ffloyd@floyd-ringer.com>;
Sean Moore <Sean@floyd-ringer.com>; Shawn Sant <ssant@co.franklin.wa.us>; Gwen Kelly <gwen@uclavrp.org>;
Zaida Cortez <zaida@morfinlawfirm.com>
Subject: Portugal et al v. Franklin County et al- Joint Order Approving Settlement and Entering Final Judgment

Hi Amanda,

Please see the attached joint order approving the settlement and entering final judgment. We will be noting a hearing for Monday for the Court to sign the order and will be filing on the ex parte docket for a motion to shorten and note the motion for the Under 10 docket. We will also notify the Court to strike the trial setting upon entering the order.

Sincerely,

Sonni Waknin

--

Sonni Waknin

Pronouns: She/Her/Hers

Program Manager of the Voting Rights Project and Voting Rights Counsel

UCLA Voting Rights Project

--

Sonni Waknin

Pronouns: She/Her/Hers

Program Manager of the Voting Rights Project and Voting Rights Counsel

UCLA Voting Rights Project

Ex.

D

Joel Ard

From: Joel Ard
Sent: Thursday, December 9, 2021 17:06
To: bward@floyd-ringer.com
Subject: Motion to Dismiss Gimenez

Brittany, do you have time for a quick question on their motion?

Thanks,

Joel

Joel B. Ard | Attorney | 206.701.9243 | www.ard.law

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Ex.

E

Joel Ard

From: Brittany Ward <bward@floyd-ringer.com>
Sent: Thursday, December 9, 2021 18:14
To: Joel Ard
Subject: Re: Motion to Dismiss Gimenez

Hi Joel- I can talk now for a few minutes? 425 770 6093.

Sent from my iPhone

On Dec 9, 2021, at 5:27 PM, Joel Ard <joel@ard.law> wrote:

Brittany,

I think I have focused enough to know my question. On a motion to intervene, the rules require that you append the pleading you'd interpose. So I attached a proposed answer and counterclaims. The counterclaim has a DJ count. Maybe that raises the jurisdictional issue they assert, probably not. But, and here's my question for you: as far as I can tell my answer has never been entered, is not on the docket, and is not an operative pleading in the case.

Even if it were, I could enter an amended one deleting the DJ count, and thereby eliminate any basis for the motion, but I wanted to confirm with you whether you see what I see on my scrolls up and down through the Odyssey docket: there is no Answer of Intervenor as part of the pleadings.

Thanks,

Joel

Joel B. Ard | Attorney | 206.701.9243 | www.ard.law

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From: Joel Ard
Sent: Thursday, December 9, 2021 17:06
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Subject: Motion to Dismiss Gimenez

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Joel B. Ard | Attorney | 206.701.9243 | www.ard.law

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Ex.

F

Joel Ard

From: Brittany Ward <bward@floyd-ringer.com>
Sent: Thursday, December 9, 2021 20:11
To: Joel Ard
Subject: Call- Im in a Meeting

Lets talk before you respond to Eddie. I can call after tonight (if its not too late for you) or tomorrow morning. Let me know!

Brittany C. Ward

Attorney

Floyd, Pflueger & Ringer, P.S.

200 West Thomas Street, Suite 500

Seattle, WA 98119-4296

206-441-4455

Fax: 206-441-8484

bward@floyd-ringer.com

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Ex.

G

Joel Ard

From: Joel Ard
Sent: Thursday, December 9, 2021 21:24
To: Brittany Ward
Subject: RE: Call- Im in a Meeting

Let's talk tomorrow morning, let me know what's good for you.

Thanks,

Joel

Joel B. Ard | Attorney | 206.701.9243 | www.ard.law

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From: Brittany Ward <bward@floyd-ringer.com>
Sent: Thursday, December 9, 2021 20:11
To: Joel Ard <joel@ard.law>
Subject: Call- Im in a Meeting

Lets talk before you respond to Eddie. I can call after tonight (if its not too late for you) or tomorrow morning. Let me know!

Brittany C. Ward
Attorney
Floyd, Pflueger & Ringer, P.S.
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Seattle, WA 98119-4296
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Ex.

И

Joel Ard

From: Brittany Ward <bward@floyd-ringer.com>
Sent: Thursday, December 9, 2021 20:11
To: Joel Ard
Subject: Call- Im in a Meeting

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Brittany C. Ward

Attorney

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July 11, 2022 - 4:32 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 100,999-2
Appellate Court Case Title: Gabriel Portugal et al. v. Franklin County et al.
Superior Court Case Number: 21-2-50210-4

The following documents have been uploaded:

- 1009992_Answer_SOG_for_Direct_Review_20220711142119SC877549_7221.pdf
This File Contains:
Answer to Statement of Grounds for Direct Review
The Original File Name was Answer to Statement of Grounds for Direct Review-FINAL.pdf
- 1009992_Other_20220711142119SC877549_3325.pdf
This File Contains:
Other - Appendix for Answer
The Original File Name was Appendix Answer to Statement of Grounds for Direct Review-FINAL.pdf

A copy of the uploaded files will be sent to:

- Bernadette@uclavrp.org
- Eddie@MorfinLawFirm.com
- amuul@floyd-ringer.com
- eddie4um509@yahoo.com
- ffloyd@floyd-ringer.com
- joel@ard.law
- matt@tal-fitzlaw.com
- phil@tal-fitzlaw.com

Comments:

Sender Name: Sonni Waknin - Email: sonni@uclavrp.org
Address:
3250 Public Affairs Building
Los Angeles, CA, 90095
Phone: (732) 610-1283

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