



**JURISDICTION AND VENUE**

1. This Court has jurisdiction over this action and over the parties. Jurisdiction is proper pursuant to 28 U.S.C. §§ 1331 and 1343, 42 U.S.C. § 1983 and common law. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because the acts complained of occurred in Bernalillo County, New Mexico and Defendants reside in New Mexico.

**PARTIES**

**Plaintiffs**

2. Plaintiff DORA ESCOBEDO is a citizen of the United States. She resides in Albuquerque, New Mexico and is a registered and eligible voter of Bernalillo County, NM. Plaintiff ESCOBEDO is Latina.

3. Plaintiff LYDIA OLIVAREZ is a citizen of the United States. She resides in Albuquerque, New Mexico and is a registered and eligible voter of Bernalillo County, NM. Plaintiff OLIVAREZ is Latina.

**Defendants**

4. Defendant PATRICK J. ROGERS resides in New Mexico and is subject to the laws of New Mexico and the United States.

5. Defendant AL ROMERO resides in New Mexico and is subject to the laws of New Mexico and the United States.

**ALLEGATIONS OF FACT**

6. Plaintiff DORA ESCOBEDO voted for the first time in the June 2008 Primary Election in Bernalillo County, NM. Plaintiff ESCOBEDO had previously registered to

vote on March 28, 2008, approximately seven months after becoming a naturalized citizen. Plaintiff ESCOBEDO is sixty-seven years old.

7. Plaintiff LYDIA OLIVAREZ voted in the June 2008 Primary Election in Bernalillo County, NM. Plaintiff OLIVAREZ had previously registered to vote on February 28, 2008, after moving to New Mexico from California. Plaintiff OLIVAREZ is sixty-three years old.

8. On Thursday, October 16, 2008, Defendant ROGERS participated in a press conference convened by the New Mexico Republican Party to announce that it believes at least 28 people cast fraudulent votes in the June 2008 Democratic Primary Election for State Representative in District 13.

9. At the press conference, Defendant ROGERS and other individuals distributed to reporters a packet of documents containing information about 28 voters that it claimed “suggests serious questions about the validity of those votes.”

10. This press packet further stated “[t]he information immediately available indicates significant indicia of fraud, identity theft issues or serious identity questions. The results of the investigation (first 10 summarized below) of all 28 will be provided to the Attorney General, District Attorney and the FBI with a request for a full and immediate investigation.”

11. Defendant ROGERS was further quoted in an Associated Press report of October 16, 2008 saying that the information in the press packet would be turned over to law enforcement officials for investigation into voter fraud.

12. The press packet named 10 individuals as having questionable votes, including Plaintiff ESCOBEDO and Plaintiff OLIVAREZ. The press packet included copies of the

ten individuals' original voter registration applications which showed their addresses, phone numbers, dates of birth, and signatures. The press packet included additional notations regarding "indicia of fraud" for each individual.

13. The press packet stated, for Plaintiff ESCOBEDO, that a person with her name had relied on a Spanish language court interpreter during a legal proceeding in 1995 and that that such reliance was "a common occurrence for illegal aliens in the court system." The press packet further stated that "No SSN or date of birth is associated with the voter, highly unusual based on a resident of at least 9 years." Finally, the press packet included notations revealing the results of a search of Plaintiff ESCOBEDO's credit history.

14. The press packet stated, for Plaintiff OLIVAREZ, that she had two social security numbers, various "aliases" and no New Mexico driver's license. The notations also stated that a search regarding Plaintiff OLIVAREZ's social security number indicated "fraud or identity theft."

15. On Wednesday, October 22, 2008 Defendant ROMERO appeared at the home of Plaintiff ESCOBEDO and asked her repeatedly to let him into her house. Defendant ROMERO represented himself as an investigator and stated that there was a problem with Plaintiff ESCOBEDO's voter registration.

16. Defendant ROMERO demanded to see Plaintiff ESCOBEDO's identification card, accused Plaintiff ESCOBEDO of being a non-U.S. citizen, threatened to call immigration authorities to her house, and laughed at her when Plaintiff ESCOBEDO explained that she possessed naturalization documents.

17. Defendant ROMERO remained outside Plaintiff ESCOBEDO'S home for approximately one hour claiming throughout that time that he was checking discrepancies

in voter registration. He further stated that he was working for a private attorney named PATRICK J. ROGERS.

18. Also on Wednesday, October 22, 2008 Defendant ROMERO appeared at the home of Plaintiff OLIVAREZ.

19. Plaintiff OLIVAREZ was not home at the time. Another resident of the household sent Defendant ROMERO away and contacted Plaintiff OLIVAREZ regarding the visit and its connection to claims of voter fraud in Bernalillo County.

20. Plaintiffs ESCOBEDO and OLIVAREZ feel threatened and intimidated by the actions of Defendants and believe that they are being targeted for accusations of voter fraud because of their race and national origin as well as their voting in the 2008 Primary and General Elections. Plaintiff ESCOBEDO has mailed her ballot to vote in the November 2008 General Election and Plaintiff OLIVAREZ hopes to cast her ballot by mail in the November 2008 General Election. Plaintiffs ESCOBEDO and OLIVAREZ are afraid that Defendants will challenge their ability to vote in the November 2008 General Election and seek to invalidated their ballots before they are counted.

21. Defendants' actions against Plaintiffs were intentional, and performed with callous, deliberate and reckless disregard for Plaintiffs' rights under both the laws and Constitution of the United States.

### **COUNT I**

#### **THE VOTING RIGHTS ACT OF 1965, 42 U.S.C. § 1971(b) (AGAINST ALL DEFENDANTS)**

22. Plaintiffs incorporate by reference all preceding allegations as if fully set forth herein.

23. Defendants violated 42 U.S.C. § 1971(b) by intimidating, threatening, coercing, and/or attempting to intimidate, threaten, or coerce Plaintiffs for the purpose of interfering with the right of Plaintiffs to vote for candidates for federal office in the November 2008 General Election.

**COUNT II**

**THE VOTING RIGHTS ACT OF 1965, 42 U.S.C. § 1973i (b)  
(AGAINST ALL DEFENDANTS)**

24. Plaintiffs incorporate by reference all preceding allegations as if fully set forth herein.

25. Defendants violated 42 U.S.C. § 1973i (b) by intimidating, threatening, or coercing, and/or attempting to intimidate, threaten, or coerce Plaintiffs for voting or attempting to vote.

**COUNT III**

**CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS  
(AGAINST ALL DEFENDANTS)**

26. Plaintiffs incorporate by reference all preceding allegations as if fully set forth herein.

27. Defendants violated 42 U.S.C. 1985 (3) by conspiring to prevent by force, intimidation, or threat, Plaintiffs from voting for candidates for federal office in the November 2008 General Election.

28. Defendants' actions against Plaintiffs were taken with racially discriminatory intent and effect.

29. Defendants acted intentionally and/or with reckless, deliberate and callous indifference to Plaintiffs' rights.

30. Defendants' acts and omissions were the direct and proximate cause of harm to Plaintiffs.

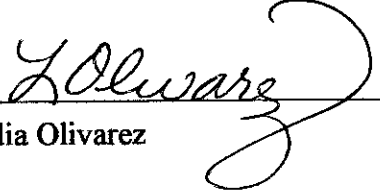
**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray this Court provide the following relief:

- A. Assumer jurisdiction over this matter;
- B. Declare that Defendants violated Plaintiffs' rights secured by the Voting Rights Act as alleged herein;
- C. Declare that Defendants' violated Plaintiffs' rights secured by 42 U.S.C. 1985 (3) as alleged herein;
- D. Enjoin Defendants, their officers, agents, employees and all persons in active concert with them, from undertaking activities which are designed to intimidate, threaten or coerce voters concerning their right to vote in an election or which are designed to in any way interfere with or discourage lawful exercise of the franchise;
- E. Enjoin Defendants, their officers, agents, employees and all persons in active concert with them, from undertaking activities to challenge the validity or legitimacy of Plaintiffs' votes cast in the November 4, 2008 General Election or the June 2008 Primary Election;
- F. Award Plaintiffs reasonable costs and attorneys fees incurred in bringing this action;
- G. Award such other and further relief as the Court may deem appropriate, including injunctive and declaratory relief as may be required in the interests of justice.

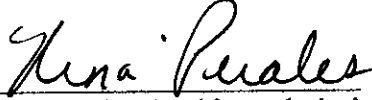
**VERIFICATION**

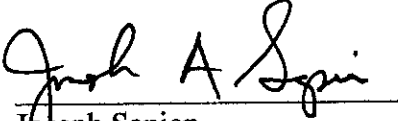
I, Lydia Olivarez, a citizen of the United States and resident of the State of New Mexico, am a plaintiff in this action. I have read the foregoing Verified Complaint and declare under penalty of perjury under the laws of the United States of America that the foregoing facts are correct and true to the best of my knowledge and belief and that those factual matters that are stated upon information and belief are believed by me to be true.

  
Lydia Olivarez

DATED: October 27, 2008

Respectfully submitted,

  
Nina Perales (seeking admission *Pro Hac Vice*)  
Diego Bernal (seeking admission *Pro Hac Vice*)  
Marisol L. Perez (seeking admission *Pro Hac Vice*)  
MEXICAN AMERICAN LEGAL DEFENSE AND  
EDUCATIONAL  
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Attorneys for Plaintiffs

JS 44 (Rev. 12/07)

### CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**  
 DORA ESCOBEDO, LYDIA OLIVAREZ

**(b) County of Residence of First Listed Plaintiff** Bernalillo  
 (EXCEPT IN U.S. PLAINTIFF CASES)

**(c) Attorney's (Firm Name, Address, and Telephone Number)**  
 Mexican American Legal Defense and Educational Fund, 100 Broadway,  
 Suite 300, San Antonio, TX 78205 (210) 224-5476 & SAPIEN LAW, LLC,  
 P.O. Box 965, Albuquerque, NM 87103-0965 (505) 842-5979

**DEFENDANTS**  
 PATRICK J. ROGERS, AL ROMERO

County of Residence of First Listed Defendant Bernalillo  
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant

4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

(For Diversity Cases Only)

Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Annuity <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input checked="" type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	

**V. ORIGIN** (Place an "X" in One Box Only)

1 Original Proceeding

2 Removed from State Court

3 Remanded from Appellate Court

4 Reinstated or Reopened

5 Transferred from another district (specify)

6 Multidistrict Litigation

7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
42 U.S.C. § 1971(b), 42 U.S.C. § 1973(b), 42 U.S.C. 1985(3)

Brief description of cause:  
Def. violated statutes when they intimidated and conspired to intimidate Plfs. from voting.

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

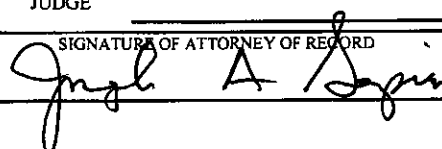
DEMAND \$ \_\_\_\_\_

CHECK YES only if demanded in complaint:  
 JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S) IF ANY** (See instructions):

JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE: 10/27/2008

SIGNATURE OF ATTORNEY OF RECORD: 

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_