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**FIRST JUDICIAL DISTRICT COURT  
COUNTY OF SANTA FE  
STATE OF NEW MEXICO**

**PUEBLO OF LAGUNA,  
a federally recognized Indian tribe,  
RICHARD LUARKIE,  
and HARRY A. ANTONIO, Jr.,**

No. D-101-CV-2011-03016

**Plaintiff,**

v.

**DIANNA J. DURAN, in her official  
capacity as Secretary of State for  
the State of New Mexico,**

**Defendant.**

**COMPLAINT OF PLAINTIFFS  
THE PUEBLO OF LAGUNA, RICHARD LUARKIE AND HARRY A. ANTONIO, JR.  
FOR INJUNCTIVE AND DECLARATORY RELIEF  
FOR REDISTRICTING OF THE NEW MEXICO STATE SENATE  
AND THE NEW MEXICO STATE HOUSE DISTRICTS**

COME NOW, the plaintiffs, Pueblo of Laguna, Richard Luarkie and Harry Antonio, by and through their attorneys Nordhaus Law Firm, LLP, and for their claims state as follows:

**PARTIES, JURISDICTION and VENUE**

1. This is a civil action for injunctive and declaratory relief to achieve a lawful redistricting of the New Mexico State Senate and New Mexico State House of Representatives as they encompass the Pueblo of Laguna Reservation.
2. This action is brought pursuant to the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, U.S. Const. amend. XIV, and the New Mexico Constitution, art.

II, § 18; the Voting Rights Act of 1965, 42 U.S.C. §§ 1973-1973gg-10 (2009); 42 U.S.C. §§ 1983 & 1988; and this court's original jurisdiction under art. VI, § 13 of the New Mexico Constitution.

3. Plaintiff Pueblo of Laguna is a federally recognized Indian tribe whose reservation is located in the New Mexico counties of Sandoval, Cibola, Bernalillo and Valencia. Pueblo of Laguna members are eligible to vote and are registered to vote as citizens of the United States and New Mexico. The Pueblo members live on the Pueblo of Laguna Reservation, on other New Mexico Pueblos and in urban areas throughout the state.

4. Plaintiff Richard Luarkie is a member of the Pueblo of Laguna, is registered to vote as a Republican in Cibola County, and is a resident of Paguate Village, New Mexico, within the Pueblo of Laguna.

5. Plaintiff Harry A. Antonio, Jr. is a member of the Pueblo of Laguna, is registered to vote as a Democrat in Cibola County, and is a resident of Old Laguna Village, New Mexico, within the Pueblo of Laguna.

6. The members of the Pueblo of Laguna are Native Americans recognized as ethnic minorities by the United States Census Bureau.

7. Defendant Duran is the duly elected Secretary of State for the State of New Mexico with offices in Santa Fe, New Mexico. As the chief election officer for the State, as provided in NMSA 1978, §§ 1-2-1 to -5 (as amended through 2011), she is charged with the responsibility of administering the election code and ensuring that elections within the State are conducted in a fair and lawful manner.

8. Defendant Duran is sued in her official capacity.
9. This court has venue over this matter pursuant to NMSA 1978 § 38-3-1(G) (1988).

### **ALLEGATIONS**

10. Every ten years, the United States Census Bureau conducts a census throughout the United States pursuant to article I, § 2 of the United States Constitution. The 2010 census showed the population of the state of New Mexico grew by approximately 13.2% from the 2000 census. The population growth was uneven throughout the state. The current political districts for the State Senate and State House have deviations from the ideal population ranging from -24.3% to 100.9%.
11. A special legislative session was called by Governor Susana Martinez for the purpose, among other things, of adopting legislation reapportioning the New Mexico State Senate and New Mexico State House of Representatives districts.
12. The Legislature passed two bills regarding the reapportionment of the State of New Mexico: Senate Bill 33 regarding the Senate districts, and House Bill 39 regarding the House districts.
13. Governor Susana Martinez has stated she will veto both bills. Governor Martinez' veto would leave in place the current political districting of the New Mexico State Senate and New Mexico State House of Representatives.
14. There is no enacted district encompassing the Pueblo of Laguna Reservation or the State of New Mexico for the New Mexico State Senate or New Mexico State House of Representatives based on the 2010 census of persons residing in New Mexico.

### **COUNT I - EQUAL PROTECTION OF THE LAW**

15. The current State Senate districts encompassing the Pueblo of Laguna Reservation and the State of New Mexico are unconstitutional and in violation of the Fourteenth Amendment to the Constitution of the United States and art. II, §§ 18 of the New Mexico Constitution.

**COUNT II - EQUAL PROTECTION OF THE LAW**

16. The current State House districts encompassing the Pueblo of Laguna Reservation and the State of New Mexico are unconstitutional and in violation of the Fourteenth Amendment to the Constitution of the United States and art. II, §§ 18 of the New Mexico Constitution.

**COUNT III - VOTING RIGHTS ACT**

17. The current State Senate districts encompassing the Pueblo of Laguna Reservation violate the voting rights of the Pueblo of Laguna members as protected in the Voting Rights Act of 1965. 42 U.S.C. §§ 1973-1973gg-10 (2009).

**COUNT IV - VOTING RIGHTS ACT**

18. The current State House districts encompassing the Pueblo of Laguna Reservation violate the voting rights of the Pueblo of Laguna members as protected in the Voting Rights Act of 1965. 42 U.S.C. §§ 1973-1973gg-10 (2009).

**REQUESTED RELIEF**

WHEREFORE, plaintiffs respectfully request that this court exercise its jurisdiction and enter:

A. A declaratory judgment adjudicating that the current districting plans, enacted by the 2002 decision in the case, *Jepsen v. Vigil-Giron*, No. D-0101-CV-2001-02177 (N.M. 1<sup>st</sup> Jud. Dist. Jan.

24, 2002) (as codified at NMSA 1978, §§ 2-7D-1) for the New Mexico State House of Representatives and the 2002 Senate Redistricting Act, NMSA 1978, § 2-8D-1 to -49 (2002), for the New Mexico State Senate are in violation of the Equal Protection Clauses of the New Mexico and United States Constitutions and the Voting Rights Act, 42 U.S.C. §§ 1973-1973gg-10 (2009);

B. Preliminary and permanent injunctions restraining defendant from using the current districting plan for the areas encompassing the Pueblo of Laguna Reservation and the State of New Mexico for the New Mexico State Senate and New Mexico State House of Representatives in any further elections;

C. A final judgment establishing a lawful districting plan encompassing the Pueblo of Laguna Reservation and the State of New Mexico for the New Mexico State Senate and New Mexico State House of Representatives based on the 2010 census in compliance with the Equal Protection Clauses of the New Mexico and United States Constitutions and the Voting Rights Act of 1965, 42 U.S.C. §§ 1973-1973gg-10 (2009), until and unless another lawfully proper redistricting bill is duly passed by the New Mexico Legislature and signed into law by the Governor;

D. An order awarding plaintiffs their lawful fees and costs of suit; and

E. Such other and further relief as the court deems proper.

Respectfully submitted this 29<sup>th</sup> day of September, 2011.

By           /s/ Teresa Isabel Leger            
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