

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

---

LEAGUE OF UNITED LATIN AMERICAN  
CITIZENS OF IOWA,

Case No. CVCV062715

Petitioner,

v.

**PETITIONER'S STATEMENT OF  
UNDISPUTED MATERIAL FACTS**

IOWA SECRETARY OF STATE PAUL  
PATE, in his official capacity; IOWA  
VOTER REGISTRATION COMMISSION;  
BUENA VISTA COUNTY AUDITOR SUE  
LLOYD, in her official capacity; CALHOUN  
COUNTY AUDITOR ROBIN BATZ, in her  
official capacity; JEFFERSON COUNTY  
AUDITOR SCOTT RENEKER, in his  
official capacity; MONTGOMERY  
COUNTY AUDITOR JILL OZUNA, in her  
official capacity,

Respondents.

---

COMES NOW Petitioner League of United Latin American Citizens of Iowa (“LULAC”) and under Rule 1.981(1) and (8) of the Iowa Rules of Civil Procedure submits its Statement of Undisputed Material Facts:

**A. LULAC of Iowa**

1. LULAC is the Iowa branch of the oldest and largest Latino civil rights organization in the country. Its mission is to promote education and civic engagement within the Latino community and to fight for the civil rights of Latinos. This includes helping Latino citizens to register to vote and encouraging Latino citizens to get involved in politics on a local, state, and national level in order to increase their voice and the consideration of issues of importance to the Latino community. Declaration of Joe Henry (“Henry Decl.”) ¶ 3.

2. LULAC of Iowa is divided into 20 councils and has approximately 600 dues paying members. Henry Decl. ¶ 4.

3. LULAC has many members with limited English proficiency. Henry Decl. ¶ 9.

4. A particular focus of LULAC's mission is voter engagement, including voter registration and mobilization efforts. Henry Decl. ¶¶ 5–6.

5. The current application of the Iowa English Language Reaffirmation Act, Iowa Code § 1.18 (the “English-Only Law”) and the injunction in *King v. Mauro*, Polk County Case No. CV006739 (Iowa Dist. Ct. Mar. 31, 2008), significantly hamper LULAC's voter registration and mobilization efforts. Henry Decl. ¶¶ 10–14.

6. LULAC is unable to send its members with limited English proficiency useable voter registrations forms or absentee ballot request forms in Spanish because county officials believe they cannot provide such forms, and—even when LULAC translates the existing forms and provides them to its members—county officials will not accept them. Henry Decl. ¶ 10.

7. LULAC has contacted local elections officials in both Des Moines and Muscatine to request assistance in translating official state voting documents or to confirm that LULAC's translation of documents are correct so that LULAC can accurately assist its members. LULAC has been told by county officials that they cannot assist LULAC with any translation efforts or provide LULAC with any assistance regarding the correct translation of official state voting documents due to *King* and the English-Only Law. Henry Decl. ¶ 11.

8. Whenever there is any change in voting hours or locations, such information is provided only in English, and LULAC must undertake time and money translating the information and conveying it to its members with limited English proficiency. Henry Decl. ¶ 12–14.

9. Shortly before the 2022 election, voters in Muscatine were sent a postcard about changes in voting precinct information. The postcard was only in English. The LULAC council in Muscatine worked to translate this information into Spanish and then distribute a translated postcard to members with limited English proficiency and/or to convey updated information to affected members in Spanish. Henry Decl. ¶ 12.

10. In addition to attempting to translate forms and provide translations for limited English proficiency members, LULAC members frequently set aside time to be available to answer questions about specific voting forms from other members with limited English proficiency. Henry Decl. ¶ 13.

11. The time and money LULAC spends translating English materials into Spanish would otherwise be devoted to other mission-critical efforts like walking neighborhoods to get out the vote, attending community events to attract new members, and placing advertisements on social media to encourage voting in the Latino community generally. Henry Decl. ¶¶ 13–14.

**B. Provision of voting materials to individuals with limited English proficiency**

12. According to the U.S. Census Bureau, there were 25,428 citizens of voting age with limited English proficiency in Iowa in 2020. *See* Declaration of Dr. Rene Rocha, Exhibit A, Expert Report of Dr. Rene R. Rocha (“Rocha Rep.”) ¶ 10. Spanish speakers make up 58.7% of voting-age citizens with limited English proficiency. *Id.*

13. Nineteen percent of eligible Latino voters in Iowa have limited proficiency in English. Rocha Rep. ¶ 13.

14. Language minorities in the United States are afforded specific protections under Section 203 of the Voting Rights Act (VRA). Section 203 requires that certain jurisdictions provide multilingual access to registration or voting notices, as well as forms, instructions, assistance, or

other materials or information relating to the electoral process. 52 U.S.C. § 10503. Section 203 coverage protections apply when large numbers of eligible voters belonging to a single language minority group are clustered in a political subdivision (over 10,000 persons or 5% of the total electorate). 52 U.S.C. § 10503(b)(2)(A).

15. Multiple peer-reviewed studies have concluded that Latino citizens residing in jurisdictions covered by Section 203 are more likely to register to vote and to vote. Rocha Rep. ¶¶ 24–29.

16. A peer-reviewed study by Michael Jones-Correa entitled “Language Provisions Under the Voting Rights Act: How Effective Are They?” published in *Social Science Quarterly* in 2005, found that Latinos residing in Section 203 covered jurisdictions were 4.4% more likely to have voted in the 1996 and 2000 election cycles as compared to Latinos in non-covered jurisdictions. Rocha Rep. ¶ 24.

17. Another study of voter turnout during the 2000 election—Michael Parkin, Frances Zlotnick, “English Proficiency and Latino Participation in U.S. Elections,” *Politics & Policy*, 39 (2011)—found that citizens who were not at all fluent in English had only a 13% probability of voting if materials were available only in English but a 60% probability of voting if materials were available in their dominant language. Rocha Rep. ¶ 25.

18. A third study (this one of the 2004 presidential election) compared voting patterns between Spanish-speaking Latino citizens who live in areas above and below the 5% threshold for Section 203 coverage and concluded that crossing the threshold for coverage increased the odds that a Spanish-speaking Latino citizen voted in the 2004 presidential election by 11 percentage points. Rocha Rep. ¶ 27 (citing Daniel J. Hopkins, “Translating into Votes: The Electoral Impacts of Spanish-Language Ballots,” *American Journal of Political Science*, 55 (2011)).

19. A fourth study (this one using official records of voter registration and turnout from the 2012 election) examined political participation among Latinos and Asian-Americans in 42 jurisdictions near the Section 203 coverage threshold and concluded that rates of overall Latino registration increased by 16 percentage points in covered areas. Rocha Rep. ¶ 29 (citing Bernard L. Fraga, and Julie Lee Merseth, “Examining the Causal Impact of the Voting Rights Act Language Minority Provisions,” *Journal of Race, Ethnicity, and Politics*, 1 (2016)).

20. Based on his review of this academic literature and his expertise, LULAC’s expert Dr. Rene Rocha—a professor of political science and Latina/o/x Studies at the University of Iowa—concluded that a lack of access to multilingual election materials translates to reduced rates of voter registration and turnout among citizens with limited English proficiency. Rocha Rep. ¶ 34.

### **C. The State’s interpretation and enforcement of the English-Only Law**

21. The office of Respondent Iowa Secretary of State (the “Secretary”) stopped providing voter registration forms in languages other than English after entry of the *King* injunction. Declaration of Shayla McCormally (“McCormally Decl.”), Ex. 1, Deposition of Molly Widen as designated Iowa Rule of Civil Procedure 1.707(5) representative for Respondents Iowa Secretary of State Paul Pate and Iowa Voter Registration Commission (“Widen Dep.”) 62:15–19.

22. In response to the *King* injunction, Respondent Iowa Voter Registration Commission rescinded its long-standing rule allowing county commissioners to translate voter registration forms into languages other than English. Widen Dep. 30:4–12, 31:19–32:11.

23. The *King* injunction informs how the Secretary’s office interprets the English-Only Law. Widen Dep. 54:22–55:4.

24. The Secretary applies the *King* injunction not only to voter registration forms but also to other voting materials, including ballots and absentee ballot applications. Widen Dep. 53:2–6, 54:10–17; 54:22–55:8, 86:2–87:13.

25. The Secretary’s office is unaware of any statute or guidance other than the English-Only Law that requires ballots to be printed only in English. Widen Dep. 34:12–18.

26. While Iowa Code § 49.90 provides that “any voter who may declare upon oath that the[y] . . . cannot read the English language” is entitled to assistance at the polls upon request, there is no equivalent provision of the Iowa Code that provides language assistance or translation for registering to vote or casting an absentee ballot. Widen Dep. 70:9–16.

27. Information about the assistance available under Iowa Code § 49.90 appears on required signs at every polling place and on the Secretary’s website, but is published in English only in both locations. Widen Dep. 75:2–20.

28. The Secretary has received inquiries about voting materials in languages other than English from members of the public, the press, and the Buena Vista County Auditor. Widen Dep. 80:22–82:5.

29. The Secretary interprets Iowa Code Section 53.2 to require county auditors to accept Spanish-language requests for absentee ballots so long as they include all the information required by the statute. Widen Dep. 50:13–53:1.

30. The Community Advocacy and Services Division of the Iowa Department of Human Rights, which includes the Office of Latino Affairs and the Commission of Latino Affairs, “fulfills the role of government access for underserved populations.” McCormally Decl., Ex. 3, Deposition of Monica Stone as designated Iowa Rule of Civil Procedure 1.707(5) representative for Iowa Department of Human Rights Office of Latino Affairs (“Stone Dep.”) 14:5–16:1. As part

of that mission, it “serves as the subject matter expert for other state agencies in terms of how people from different cultures, races, ethnicities, and backgrounds can better access government or how [state agencies] can provide better language access.” *Id.* 17:4–10.

31. “The Office of Latino Affairs . . . believes it’s important to provide information in native languages for people, primarily because people understand that information so much more effectively . . . . It’s a way to help people gain an understanding of a circumstance in a way that they might not otherwise.” Stone Dep. 30:15–31:1.

32. Throughout the COVID-19 pandemic, the Office of Latino Affairs has “worked really closely with the governor’s office to provide as near to coincident or realtime interpretation and translation of materials in Spanish and in other languages to help people understand public health needs, as well as changing requirements and regulations around the state.” Stone Dep. 36:19–37:8.

33. The Office of Latino Affairs has also worked with the Iowa Department of Transportation to “identify [] where . . . there are speakers of languages other than English in Iowa so that [the Department of Transportation is] able to stock and provide driver’s instruction information or DOT-r[el]ated information at their local service centers around the state.” Stone Dep. 42:10–43:11.

34. The Office of Latino Affairs has “robust relationship[s] around the state with service providers” that Latinos are “most comfortable working with” and “stakeholders who have expressed concern about the English-Only Law” and “what limitations [it] places on the state in terms of providing information or advocacy.” Stone Dep. 26:16–21, 49:15–19. The Office has received requests for voting materials in other languages, particularly in Spanish and American Sign Language, and has found that “people would like to have voting materials available to them

in a way they understand, whether that's plain language or their native language . . . ." Stone Dep. 50:9–12, 51:6–9.

35. The Office of Latino Affairs believes that "if you're unable to read or understand the information about voting, it would, in any circumstance, preclude you from participation unless you had access to someone who can help you," which is "not true for everyone," and "removes some of the independence of your own decision-making in those circumstances." Stone Dep. 31:3–15.

36. The Office of Latino Affairs has had multiple meetings with individuals from the Secretary's office about "increasing voter access," where it advised that information such as "what the requirements are to be a voter and what you might see when you get to the polls to familiarize people with polling" "would be better provided in people's native languages . . . ." Stone Dep. 25:14–27:12.

37. Prior to 2020, employees from the Office of Latino Affairs met with individuals from the Secretary's office and "advocated for information about voting and voter registration to be provided in the common languages spoken in Iowa and that information about how to access government and access the services of the Secretary of State, including voter registration, would be . . . an important part of [] people's citizenship and civic engagement." Stone Dep. 53:2–12.

38. The Office of Latino Affairs believes that "as much information as possible about how to participate in the voting process should be made available in ways people will understand, including in different languages . . . to whatever extent that needs to be taken to allow people to [] exercise their right to vote . . . ." Stone Dep. 82:6–12.



**D. County Auditors' enforcement of the English-Only Law and provision of voting materials to individuals with limited English proficiency**

39. The Respondent County Auditors of Buena Vista, Calhoun, Jefferson, and Montgomery counties all admit that their offices do “not provide voting materials in languages other than English because of the English-Only Law and/or the permanent injunction entered in *King v. Mauro*.” McCormally Decl., Ex. 4, Def. Buena Vista County Auditor Sue Lloyd’s Resp. to Pl.’s Req. for Admis. No. 2; McCormally Decl., Ex. 5, Def. Calhoun County Auditor Robin Batz’s Resp. to Pl.’s Req. for Admis. No. 2; McCormally Decl., Ex. 6, Def. Jefferson County Auditor Scott Reneker’s Resp. to Pl.’s Req. for Admis. No. 2; McCormally Decl., Ex. 7, Def. Montgomery County Auditor Jill Ozuna’s Resp. to Pl.’s Req. for Admis. No. 2.

40. Respondent Sue Lloyd is the County Auditor for Buena Vista County, a position she has held since 2010. McCormally Decl., Ex. 2, Deposition of Susan Lloyd as designated Iowa Rule of Civil Procedure 1.707(5) representative for Respondent Buena Vista County Auditor Susan Lloyd (“Lloyd Dep.”) 15:1–13.

41. After passage of the English-Only Law in 2002, Ms. Lloyd’s office continued distributing Spanish voter registration forms until the *King* lawsuit was filed in 2008. Lloyd Dep. 35:8–37:15. The Secretary instructed Ms. Lloyd’s office to stop distributing translated voter registration forms after the *King* lawsuit was filed, and Ms. Lloyd’s office complied. *Id.*

42. Ms. Lloyd believes that the *King* injunction prevents her office from providing translation services or translated voting materials unless required by federal law. Lloyd Dep. 37:21–38:10, 39:10–19.

43. Ms. Lloyd explained that, “[i]f it weren’t for” the *King* injunction, her office “would have continued” distributing Spanish voter registration forms. Lloyd Dep. 40:6–10.

44. In 2017, after Buena Vista County became covered by Section 203 of the VRA, Ms. Lloyd's office asked the Secretary to translate official state voter registration forms and instructions for absentee voting into Spanish. Lloyd Dep. 19:18–20:9.

45. "The Secretary of State's office provided assistance when requested to Buena Vista County on the translations of forms that were utilized by voters," and, "when [the Secretary] did mailings on behalf of the county auditor, [the Secretary] ensured that they were available in both English and Spanish." Widen Dep. 56:9–20.

46. While Buena Vista County was covered by Section 203 of the VRA, Ms. Lloyd's office distributed and accepted voting materials in Spanish. Lloyd Dep. 22:6–19.

47. While Buena Vista County was covered by Section 203 of the VRA, the Secretary provided Ms. Lloyd's office with Spanish-language informational posters for polling places, Spanish versions of Voter ID palm cards, and Spanish versions of mailings related to voting during the COVID-19 pandemic. Widen Dep. 63:8–64:14, 98:7–14, 107:2–22.

48. While Buena Vista County was covered by Section 203 of the VRA, Ms. Lloyd's office ensured that the Storm Lake and Alta precincts were staffed with at least one person who could speak Spanish and hired a professor to translate ballot language, instructions on the ballot, and notices of elections for newspapers. Lloyd Dep. 27:12–29:2, 31:16–33:2.

49. While Buena Vista County was covered by Section 203 of the VRA, Ms. Lloyd's office considered language qualifications in hiring precinct officials, but it does not do so anymore. Lloyd Dep. 34:11–20.

50. During the 2020 election cycle, another county auditor asked Ms. Lloyd's office for copies of Buena Vista County's translated voting materials, but Ms. Lloyd's office did not provide them "because of the injunction" in *King*. Lloyd Dep. 25:13–27:6.

51. In an interview she gave to Iowa Public Radio in 2020, Ms. Lloyd expressed that she believed other counties should be allowed to translate voting materials “in order to help their voting population that might need assistance if they can’t read English yet [and] might need some help.” Ms. Lloyd agreed that translated materials would help voting easier for individuals with limited English proficiency. Lloyd Dep. 44:19–45:8.

52. Ms. Lloyd’s office did not provide Spanish voting materials in 2022 because Buena Vista County was no longer covered by Section 203 of the VRA, and Ms. Lloyd explained that, “because of the injunction” in *King*, she was “not allowed to do that.” Lloyd Dep. 24:8–18.

53. Ms. Lloyd was unsure whether her office would accept the version of the National Mail Voter Registration Form that includes a Spanish translation due to the English-Only Law and the *King* injunction. Lloyd Dep. 41:6–42:3.

54. Joel Miller is the County Auditor and Commissioner of Elections for Linn County, Iowa, a position he has held since February 20, 2007. Declaration of Joel Miller (“Miller Decl.”) ¶ 2. As County Auditor, Mr. Miller is entrusted to administer all elections in Linn County. *Id.* ¶ 3.

55. During his time as County Auditor, Mr. Miller has received requests from the public to provide or accept voting materials in languages other than English. Miller Decl. ¶ 4. Due to concerns about complying with the English-Only Law, his office has declined those requests. *Id.*

56. If a court ruled that the English-Only Law did not apply to some or all voting materials, Mr. Miller’s office would provide and accept voting materials in Spanish and other non-English languages. Miller Decl. ¶ 5.

#### **E. The July 2021 Administrative Petition and response**

57. On July 28, 2021, LULAC sought to clarify certain issues related to the English-Only Law by filing a Petition for Declaratory Order with the Secretary under Iowa Code § 17A.9

and Iowa Administrative Code r. 721-9.1(17A) (the “Administrative Petition”). *See Pet. by League of United Latin Am. Citizens of Iowa for Declaratory Order on Title II, Chapter 48A (Voter Registration) & Section 53.2 (Absentee Ballot Request) of the Iowa Code* (July 28, 2021), attached as Ex. 2 to Pet’r’s Am. Pet.

58. The Administrative Petition sought clarification on two main points: first, whether county auditors outside Buena Vista County may accept certain Spanish-language forms used by Buena Vista County; and second, whether county auditors must accept the Spanish-language version of the National Mail Voter Registration Form. *Id.* LULAC specifically asked if county auditors could accept and use the official Spanish-language version of the State of Iowa Official Absentee Ballot Request Form outside of Buena Vista County and suggested that the answer must be yes under Iowa Code § 53.2(2). *Id.* at 9.

59. On September 27, 2021, the Secretary issued a one-sentence response to the Administrative Petition, stating that his office is “still under an injunction stemming from *King v. Mauro* . . . , which prevents the dissemination of official voter registration forms for this state in languages other than English.” Letter from Molly Widen, Legal Counsel for the Office of the Iowa Secretary of State, to Shayla McCormally, McCormally & Cosgrove, PLLC (Sept. 27, 2021), attached as Ex. 3 to Pet’r’s Am. Pet.

60. The Secretary’s September 27, 2021 response to the Administrative Petition remains the Secretary’s official position. Widen Dep. 65:9–15.

Dated this 1st day of February, 2023.

Respectfully submitted,

*/s/ Shayla McCormally* \_\_\_\_\_

Shayla L. McCormally AT0009611  
**McCORMALLY & COSGROVE, PLLC**  
4508 Fleur Drive  
Des Moines, Iowa 50321  
Telephone: (515) 218-9878  
Facsimile: (515) 218-9879  
shayla@mciowalaw.com

Uzoma N. Nkwonta\*  
John M. Geise\*  
William K. Hancock\*  
Melinda K. Johnson\*  
Alexander F. Atkins\*  
**ELIAS LAW GROUP LLP**  
250 Massachusetts Avenue NW, Suite 400  
Washington, D.C. 20001  
Telephone: (202) 968-4490  
unkwonta@elias.law  
jgeise@elias.law  
whancock@elias.law  
mjohnson@elias.law  
aatkins@elias.law

*Counsel for Petitioner*

*\*Admitted Pro Hac Vice*