

Settlement of Voting Rights Act Litigation Ensures Spanish-Language Ballots, Election Materials, and Assistance in 31 Florida Counties for Ten Years

On February 1, 2021, voting rights advocates represented by Altshuler Berzon LLP entered a 10-year settlement agreement with 31 Florida county Supervisors of Elections to provide Spanish-language ballots, election materials, and oral assistance to help ensure that Spanish-speaking voters educated in Puerto Rico and protected by Section 4(e) of the federal Voting Rights Act can vote effectively. The settlement marks the successful resolution of *Marta Rivera Madera, et al. v. Kim Barton (formerly Laurel Lee) (formerly Ken Detzner), et al.*, N.D. Fla. Case No. 1:18-cv-152-MW/GRJ. The case is one of the largest lawsuits ever brought under Section 4(e) of the Voting Rights Act, and even before the settlement had already resulted in substantial expansions of access to Spanish-language ballots, election materials, and assistance throughout Florida.

The Lawsuit

Section 4(e) of the federal Voting Rights Act prohibits states from denying the right to vote of Puerto Rican-educated American citizens based on their inability to speak, read, or understand English. The Puerto Rican community surged in Florida following the devastation of Hurricane Maria in September 2017, but many Florida counties still ran English-only elections. On August 16, 2018, Altshuler Berzon LLP, along with co-counsel at Demos, LatinoJustice PRLDEF, and SEIU, filed a class-action complaint on behalf of more than 30,000 Spanish-speaking Puerto Ricans in 32 Florida counties, as well as racial justice and civic engagement organization plaintiffs Faith in Florida, Hispanic Federation, Mi Familia Vota, UnidosUS, and Vamos4PR. The lawsuit sought preliminary and permanent injunctive relief to allow Spanish-speaking Puerto Ricans the ability to cast a meaningful vote in the upcoming and future elections. See [here](#) for more about the filing of the lawsuit.

Critical Injunctive Relief Previously Achieved Before the 2018 and 2020 Elections

On September 7, 2018, the federal court for the Northern District of Florida issued a preliminary injunction requiring Florida's Secretary of State to direct the Supervisors of Elections in 32 Florida counties to make available for the November 2018 general election a facsimile sample ballot in Spanish to voters protected by Section 4(e) of the Voting Rights Act, and to publish the sample ballot in advance of the election along with instructions in Spanish for how to use it to help cast a vote. See *Rivera Madera v. Detzner*, 325 F.Supp.3d 1269 (N.D. Fla. 2018).

In granting a preliminary injunction, the court held that continuing to conduct English-only elections in counties that are home to Spanish-speaking Puerto Ricans clearly violates the Voting Rights Act. As the Court explained: "Puerto Ricans are American citizens. Unique among Americans, they are not educated primarily in English-and do not need to be. But, like all American citizens, they possess the fundamental right to vote. The issue in this case is whether Florida officials, consistent with longstanding federal law, must provide assistance to Puerto Rican voters who wish to vote. Under the plain language of the Voting Rights Act, they must." The Court also held that, absent such assistance, those voters "would face the false decision to vote in a manner they do not meaningfully comprehend or not vote at all," which "is antithetical to what our democratic government stands for." See [here](#) for more about the first preliminary injunction.

On May 10, 2019, the court issued a second preliminary injunction, requiring Florida’s Secretary of State to direct the Supervisors of Elections in 32 Florida counties to provide Spanish-language election assistance—including Spanish-language or bilingual official ballots, a Spanish-language hotline, and Spanish translations of all official, election materials—for elections beginning with Florida’s March 2020 presidential primary. *See Rivera Madera v. Lee*, 2019 WL 2077037 (N.D. Fla. May 10, 2019).

This second order expanded on the preliminary relief the Court had previously granted. In granting broader relief, the Court explained: “This case is about the fundamental right to cast an effective ballot. Voters educated in Puerto Rico bring this suit to enforce the plain provisions of the Voting Rights Act’s Section 4(e). This straightforward law has been on the books for 54 years. In this action, this Court is ensuring compliance with Congress’s clear directives.” See [here](#) for more about the second preliminary injunction.

Florida Statewide Rules for Future Elections

In April 2020, in direct response to this litigation, Florida’s Secretary of State adopted new statewide regulations that require the provision of Spanish-language official ballots and certain polling place materials and assistance throughout the entire state. *See* Rules 1S-2.032 and 1S-2.034, Florida Administrative Code. The Secretary of State was subsequently dismissed from the lawsuit.

The Settlement

Now, 31 of the 32 Supervisors of Elections for counties at issue in the lawsuit have agreed to provide additional assistance for Spanish-speaking voters in these counties beyond that required by the State’s new rules. Under the settlement, the 31 Supervisors will provide the following language access services in their counties for the next 10 years:

- Spanish-language official ballots
- Spanish-language polling place materials and assistance
- Spanish-language vote-by-mail ballots and request forms
- Spanish-language secrecy envelopes (including voter’s certificates) and instructions with all Spanish-language vote-by-mail ballots
- Spanish-language translation of the Supervisor’s official websites
- A county-specific hotline to assist Spanish-speaking voters during voting periods
- Spanish-language signage at the Supervisor’s offices informing voters of the availability of these Spanish-language resources

The full settlement and motion to dismiss pursuant to the settlement can be found [here](#) and [here](#).