

## Enjoining Nonbinding Voting That Allots One Vote Per House or Apartment Building

*Andrade v. Pulido*

*(Cormac J. Carney, C.D. Cal. 8:03-cv-1157)*

A federal complaint, which was filed two days before a nonbinding mail-in election was to end, challenged as discriminatory the election on retaining traffic barriers, because one vote was assigned to each house or apartment building. The district judge issued a temporary restraining order on the following day and ultimately ruled against a related election held three years previously using the same vote allocation.

*Subject:* Ballot measures. *Topics:* Enjoining elections; ballot measure; equal protection; attorney fees.

A July 23, 2003, federal complaint filed in the Santa Ana courthouse of the Central District of California challenged a nonbinding mail-in election on retaining traffic barriers as discriminating against apartment dwellers in favor of house dwellers, because only one vote was assigned to each apartment building or house.<sup>1</sup> With their complaint, which was filed two days before voting was to end, the plaintiffs filed an application for a temporary restraining order.<sup>2</sup>

According to the *Los Angeles Times*,

The lawsuit alleges that the election favors French Park, a community of single-family homes on one side of the barriers, over French Court, made up mostly of Latino apartment dwellers on the other.

...

French Park residents say the barriers reduce north-south commuter traffic, but the apartment dwellers in adjacent French Court say they limit police access and make it difficult to leave the neighborhood.<sup>3</sup>

On the day after the complaint was filed, Judge Cormac J. Carney issued a temporary restraining order and an order to show cause by Friday, August 1, why counting of the votes should not be enjoined.<sup>4</sup> On Monday, Judge Carney issued a preliminary injunction against counting the ballots.<sup>5</sup> Santa Ana's city council voted the same day to suspend the barrier election.<sup>6</sup>

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1. Docket Sheet, *Andrade v. Pulido*, No. 8:03-cv-1157 (C.D. Cal. July 23, 2003); see Jennifer Mena, *Voting-Rights Suit Aims to Halt Santa Ana's "Poll" on Barriers*, L.A. Times, July 24, 2003, Cal. Metro, at 1.

2. Docket Sheet, *supra* note 1; see Mena, *supra* note 1.

3. Mena, *supra* note 1.

4. Order, *Andrade*, No. 8:03-cv-1157 (C.D. Cal. July 24, 2003), D.E. 9; see Jennifer Mena, *Judge Stops Count of Votes on Barricades*, L.A. Times, July 25, 2003, Cal. Metro, at 3.

5. Preliminary Injunction, *Andrade*, No. 8:03-cv-1157 (C.D. Cal. Aug. 4, 2003), D.E. 10.

6. See Jennifer Mena & David Haldane, *Santa Ana Suspends Vote Tactic*, L.A. Times, Aug. 5, 2003, Cal. Metro, at 3.

Reviewing an amended complaint, Judge Carney ruled on December 16, 2004, that the barriers must be removed, because they were erected following a 2000 vote with the same flaws as the 2003 vote.<sup>7</sup>

On April 4, 2005, the parties agreed to a payment of \$65,000 in attorney fees, in addition to the \$1,339.45 bill of costs.<sup>8</sup>

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7. Opinion, *Andrade*, No. 8:03-cv-1157 (C.D. Cal. Dec. 16, 2004), D.E. 55; Judgment, *id.* (Dec. 17, 2004), D.E. 56.

8. Order, *id.* (Apr. 7, 2005), D.E. 60; Bill of Costs, *id.* (Jan. 21, 2005), D.E. 57.