

**SUMMONS
(CITACION JUDICIAL)**

SUM-100

**NOTICE TO DEFENDANT: CITY OF SANTA BARBARA,
(AVISO AL DEMANDADO): CALIFORNIA, and DOES 1-100,
inclusive.**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

JUL 29 2014

Darrel E. Parker, Executive Officer

BY Jessica Vega
Jessica Vega, Deputy Clerk

**YOU ARE BEING SUED BY PLAINTIFF: FRANK BANALES, an
(LO ESTÁ DEMANDANDO EL DEMANDANTE): individual;
SEBASTIAN ALDANA, JR., an individual; JACQUELINE
INDA, an individual; CRUZITO HERRERA CRUZ, an
individual; and BENJAMIN CHEVEREZ, an individual**

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación**

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

Santa Barbara Superior Court
1100 Anacapa Street
1100 Anacapa Street
Santa Barbara, CA 93121

CASE NUMBER:
(Número del Caso):

1468167

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

A. Barry Cappello (SBN 0378350)
Leila J. Noël (SBN 114307)
Wendy D. Welkom (SBN 156345)
831 State Street, Santa Barbara, CA 93101

(805) 564-2444 (805) 965-5950
Darrel E. Parker, Executive Officer

JESSICA VEGA

DATE: **JUL 29 2014**
(Fecha)

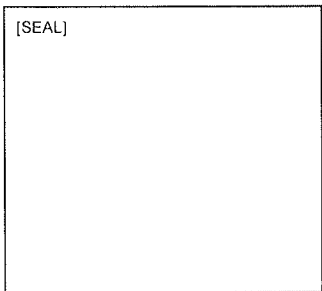
Clerk, by _____, Deputy
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):
3. on behalf of (specify):
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
4. by personal delivery on (date):



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
A. Barry Cappello (SBN 0378350)
Leila J. Noël (SBN 114307)
Wendy D. Welkom (SBN 156345)
CAPPELLO & NOËL LLP
831 State Street, Santa Barbara, CA 93101
TELEPHONE NO.: (805) 564-2444 FAX NO.: (805) 965-5950

ATTORNEY FOR (Name): Plaintiffs
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Barbara
STREET ADDRESS: 1100 Anacapa Street
MAILING ADDRESS: 1100 Anacapa Street
CITY AND ZIP CODE: Santa Barbara, CA 93121
BRANCH NAME: Anacapa Division

CASE NAME: Banales, et al. v. City of Santa Barbara, et al.

CIVIL CASE COVER SHEET
 Unlimited (Amount demanded exceeds \$25,000) Limited (Amount demanded is \$25,000 or less)

Complex Case Designation
 Counter Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA
JUL 29 2014
Darrel E. Parker, Executive Officer
BY Jessica Vega
Jessica Vega, Deputy Clerk

CASE NUMBER: **1468167**

JUDGE:
DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:
- | | | |
|--|--|---|
| Auto Tort
<input type="checkbox"/> Auto (22)
<input type="checkbox"/> Uninsured motorist (46)
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
<input type="checkbox"/> Asbestos (04)
<input type="checkbox"/> Product liability (24)
<input type="checkbox"/> Medical malpractice (45)
<input type="checkbox"/> Other PI/PD/WD (23)
Non-PI/PD/WD (Other) Tort
<input type="checkbox"/> Business tort/unfair business practice (07)
<input type="checkbox"/> Civil rights (08)
<input type="checkbox"/> Defamation (13)
<input type="checkbox"/> Fraud (16)
<input type="checkbox"/> Intellectual property (19)
<input type="checkbox"/> Professional negligence (25)
<input type="checkbox"/> Other non-PI/PD/WD tort (35)
Employment
<input type="checkbox"/> Wrongful termination (36)
<input type="checkbox"/> Other employment (15) | Contract
<input type="checkbox"/> Breach of contract/warranty (06)
<input type="checkbox"/> Rule 3.740 collections (09)
<input type="checkbox"/> Other collections (09)
<input type="checkbox"/> Insurance coverage (18)
<input type="checkbox"/> Other contract (37)
Real Property
<input type="checkbox"/> Eminent domain/Inverse condemnation (14)
<input type="checkbox"/> Wrongful eviction (33)
<input type="checkbox"/> Other real property (26)
Unlawful Detainer
<input type="checkbox"/> Commercial (31)
<input type="checkbox"/> Residential (32)
<input type="checkbox"/> Drugs (38)
Judicial Review
<input type="checkbox"/> Asset forfeiture (05)
<input type="checkbox"/> Petition re: arbitration award (11)
<input type="checkbox"/> Writ of mandate (02)
<input type="checkbox"/> Other judicial review (39) | Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)
<input type="checkbox"/> Antitrust/Trade regulation (03)
<input type="checkbox"/> Construction defect (10)
<input type="checkbox"/> Mass tort (40)
<input type="checkbox"/> Securities litigation (28)
<input type="checkbox"/> Environmental/Toxic tort (30)
<input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)
Enforcement of Judgment
<input type="checkbox"/> Enforcement of judgment (20)
Miscellaneous Civil Complaint
<input type="checkbox"/> RICO (27)
<input checked="" type="checkbox"/> Other complaint (not specified above) (42)
Miscellaneous Civil Petition
<input type="checkbox"/> Partnership and corporate governance (21)
<input type="checkbox"/> Other petition (not specified above) (43) |
|--|--|---|

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
a. Large number of separately represented parties d. Large number of witnesses
b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. Substantial amount of documentary evidence f. Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): One
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: July 29, 2014
A. Barry Cappello
(TYPE OR PRINT NAME)


(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

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abc@cappellonoel.com
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5 831 State Street
Santa Barbara, California 93101
6 Telephone: (805) 564-2444
7 Facsimile: (805) 965-5950

8 Attorneys for Plaintiffs

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF SANTA BARBARA, ANACAPA DIVISION**

11 FRANK BANALES, an individual;
12 SEBASTIAN ALDANA, JR., an individual;
13 JACQUELINE INDA, an individual
CRUZITO HERERRA CRUZ, an individual;
and BENJAMIN CHEVEREZ, an individual,

14 Plaintiffs,

15 vs.

16 CITY OF SANTA BARBARA, CALIFORNIA,
and DOES 1-100, inclusive,

17 Defendants.
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FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

JUL 29 2014

Darrel E. Parker, Executive Officer

BY Jessica Vega
Jessica Vega, Deputy Clerk

Case No.

1468167

**COMPLAINT FOR VIOLATION OF
THE CALIFORNIA VOTING RIGHTS
ACT OF 2001**

1 Plaintiffs FRANK BANALES, SEBASTIAN ALDANA, JR., JACQUELINE INDA,
2 CRUZITO HERERRA CRUZ, and BENJAMIN CHEVEREZ (hereinafter referred to as
3 “Plaintiffs”), allege as follows:

4 1. All allegations made in this complaint are based upon information and belief, except
5 those allegations which pertain to the named Plaintiffs, which are based on personal knowledge.
6 The allegations of this complaint stated on information and belief are likely to have evidentiary
7 support after a reasonable opportunity for further investigation or discovery.

8 NATURE OF THE ACTION

9 2. This action is brought by Plaintiffs for injunctive relief against the City of Santa
10 Barbara, California, for its violation of the California Voting Rights Act of 2001 (hereinafter the
11 “CVRA”), California Elections Code §§ 14025, *et seq.* The imposition of the City of Santa
12 Barbara’s at-large method of election has resulted in vote dilution for Latino residents and has
13 denied them effective political participation in elections to the Santa Barbara City Council. The City
14 of Santa Barbara’s at-large method of election for electing members to its City Council prevents
15 Latino residents from electing candidates of their choice in Santa Barbara’s City Council elections.

16 3. The effects of the City of Santa Barbara’s at-large method of election are apparent
17 and compelling. Despite a Latino population of approximately thirty-eight percent (38%) in the City
18 of Santa Barbara, only one Latino/Latina has been elected to Santa Barbara’s City Council in the
19 past ten years. This lack of successful Latino candidates reveals the lack of access to the political
20 process.

21 4. The City of Santa Barbara’s at-large method of election violates the CVRA.
22 Plaintiffs bring this action to enjoin the City of Santa Barbara’s continued abridgment of Latino
23 voting rights. Plaintiffs seek a declaration from this Court that the at-large method of election
24 currently used by the City of Santa Barbara violates the CVRA. Plaintiffs seek injunctive relief
25 enjoining the City of Santa Barbara from further imposing or applying its current at-large method of
26 election. Further, Plaintiffs seek injunctive relief requiring the City of Santa Barbara to design and
27 implement district based elections or other alternative relief tailored to remedy Santa Barbara’s
28 violation of the CVRA.

1 **PARTIES**

2 5. At all times herein mentioned, Plaintiffs, and each of them, are and have been
3 registered voters residing in the City of Santa Barbara and are eligible to vote in the City of Santa
4 Barbara’s elections.

5 6. At all times herein mentioned, Defendant City of Santa Barbara, California (“Santa
6 Barbara”) is and has been a political subdivision subject to the provisions of the CVRA.

7 7. Plaintiffs are unaware of the true names and capacities, whether individual, corporate,
8 associate, or otherwise, of defendants sued herein as Does 1 through 100, inclusive, and therefore,
9 sue said defendants by fictitious names and will ask leave of court to amend this complaint to show
10 their true names and capacities when the same have been ascertained. Plaintiffs are informed and
11 believe and thereon allege that defendants Does 1 through 100, inclusive, are responsible on the facts
12 and theories herein alleged.

13 8. Does 1 through 100, inclusive, are Defendants which have caused Santa Barbara to
14 violate the CVRA, failed to prevent Santa Barbara’s violation of the CVRA, or are otherwise
15 responsible for the acts and omissions alleged herein.

16 9. Plaintiffs are informed and believe and thereon allege that Defendants and each of
17 them are in some manner legally responsible for the acts and omissions alleged herein, and actually
18 and proximately caused and contributed to the various injuries and damages referred to herein.

19 10. Plaintiffs are informed and believe and thereon allege that at all times herein
20 mentioned each of the Defendants were the agent, partner, predecessor in interest, successor in
21 interest, and/or employee of one or more of the other Defendants, and were at all times herein
22 mentioned acting within the course and scope of such agency and/or employment.

23 **JURISDICTION AND VENUE**

24 11. All parties hereto are within the unlimited jurisdiction of this Court. The unlawful
25 acts complained of occurred in Santa Barbara County. Venue in this Court is proper.

26 **GENERAL ALLEGATIONS**

27 12. Based on figures from the 2010 United States Census, the City of Santa Barbara
28 contains approximately 88,410 persons, of which thirty-eight percent (38%) are Hispanic or Latino.

1 13. The Latino population located within the City of Santa Barbara is geographically
2 concentrated.

3 14. The City of Santa Barbara is governed by a city council. The Santa Barbara City
4 Council serves as the governmental body responsible for the operations of the City of Santa Barbara.
5 The City Council is comprised of seven members, i.e., one mayor and six council members.

6 15. The mayor for the City of Santa Barbara and the Santa Barbara City Council
7 members are elected pursuant to an at-large method of election. Under this method of election, all of
8 the eligible voters of the entire City of Santa Barbara elect the mayor and members to the City
9 Council.

10 16. Vacancies to the City Council are elected on a staggered basis. Every two years the
11 city electorate elects three City Council members who each serve a four-year term. The mayor is
12 elected for a term of four years.

13 17. Upon information and belief, since Santa Barbara's adoption of the at-large system in
14 1968, no Latino candidate has been elected mayor. In addition, between 2001 and 2013, only one
15 Latina candidate has been elected to Santa Barbara City Council, in the 2011 election, and no Latino
16 candidates, although several Latino candidates have run in the elections.

17 18. Elections conducted within the City of Santa Barbara are characterized by racially
18 polarized voting. Racially polarized voting occurs when members of a protected class as defined by
19 the CVRA, Cal. Elec. Code § 14025(d), vote for candidates and electoral choices that are different
20 from the rest of the electorate. Racially polarized voting exists within the City of Santa Barbara
21 because there is a difference between the choice of candidates or other electoral choices that are
22 preferred by Latino voters and the choice of candidates or other electoral choices that are preferred
23 by voters in the rest of the electorate.

24 19. Racially polarized voting consists both of voter cohesion on the part of Latino voters
25 and of bloc voting by the non-Latino electorate against the choices of Latino voters. Such polarized
26 voting is legally significant in Santa Barbara's City Council elections because it dilutes the
27 opportunity of Latino voters to elect candidates of their choice.

28 20. Patterns of racially polarized voting have the effect of impeding opportunities for

1 Latino voters to elect candidates of their choice to the at-large city council positions in the City of
2 Santa Barbara, where the non-Latino populace dominates elections. For several years, Latino voters
3 have been harmed by racially polarized voting.

4 21. For example, in every instance in which a Latino or African-American candidate has
5 run for city council or mayor from 2001 to the present in Santa Barbara, there has been a statistically
6 significant difference in voting patterns between Latino voters and other voters. That is to say,
7 Latino voters were more in favor of the minority candidates than non-Latino voters. Even a well-
8 established Latino candidate such as Gil Garcia, who was able to win a council seat when voters
9 were asked to vote for three candidates, was unable to win when he ran for mayor in 2001, because
10 he did not have enough non-Latino support from voters who were willing to vote for him as the only
11 candidate. Additionally, although Cathy Murillo, a Latina candidate, was able to win a city council
12 seat in 2011 (the first Latino candidate elected since the 1997 election), racial polarization for Latino
13 candidates persists in the 2013 election. The Santa Barbara elections thus demonstrate substantial
14 and statistically significant racial polarization.

15 22. The at-large method of election and repeated racially polarized voting has caused
16 Latino vote dilution within the City of Santa Barbara. Where Latinos and the rest of the electorate
17 express different preferences on candidates and other electoral choices, non-Latino voters, by virtue
18 of their overall numerical majority among voters, defeat the preferences of Latino voters.

19 23. The obstacles posed by the City of Santa Barbara's at-large method of election,
20 together with racially polarized voting, impair the ability of people of certain races, colors or
21 language minority groups, such as Latino voters, to elect candidates of their choice in elections
22 conducted in the City of Santa Barbara.

23 24. An alternative method of election exists, such as district-based elections, that will
24 provide an opportunity for the members of the protected classes as defined by the CVRA to elect
25 candidates of their choice in Santa Barbara City Council elections.

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1 **FIRST CAUSE OF ACTION**

2 **(Violation of California Voting Rights Act of 2001)**

3 **(Against All Defendants)**

4 25. Plaintiffs incorporate by this reference paragraphs 1 through 24 as though fully set
5 forth herein.

6 26. Plaintiffs, and each of them, are registered voters and reside within the City of Santa
7 Barbara, California. Plaintiffs are members of a protected class of voters under the CVRA.
8 Plaintiffs are over the age of 18 and are eligible to vote in the City of Santa Barbara's elections.

9 27. Defendant City of Santa Barbara is a political subdivision within the State of
10 California.

11 28. Defendant City of Santa Barbara employs an at-large method of election, where
12 voters of its entire jurisdiction elect members to its City Council.

13 29. Racially polarized voting has occurred, and continues to occur, in elections for
14 members to the City Council for the City of Santa Barbara and in elections incorporating other
15 electoral choices by voters of Santa Barbara. As a result, the City of Santa Barbara's at-large
16 method of election is imposed in a manner that impairs the ability of protected classes as defined by
17 the CVRA to elect candidates of their choice in Santa Barbara elections.

18 30. An alternative election method, such as district-based elections, exists that will
19 provide an opportunity for the members of the protected classes as defined by the CVRA to elect
20 candidates of their choice in Santa Barbara City Council elections.

21 31. An actual controversy has arisen and now exists between the parties relating to the
22 legal rights and duties of Plaintiffs and Defendants, for which Plaintiffs desire a declaration of rights.

23 32. Defendants' wrongful conduct has caused and, unless enjoined by this Court, will
24 continue to cause, immediate and irreparable injury to Plaintiff, and those similarly situated.

25 33. Plaintiffs, and those similarly situated, have no adequate remedy at law for the
26 injuries they currently suffer and will otherwise continue to suffer.

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1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them, as
3 follows:

4 1. For a decree that the City of Santa Barbara's current at-large method of election for
5 the City Council violates the California Voting Rights Act of 2001;

6 2. For preliminary and permanent injunctive relief enjoining the City of Santa Barbara
7 from imposing or applying its current at-large method of election;

8 3. For injunctive relief mandating the City of Santa Barbara to design and implement
9 district-based elections, as defined by the California Voting Rights Act of 2001, or other alternative
10 relief tailored to remedy the City of Santa Barbara's violation of the California Voting Rights Act of
11 2001;

12 4. For an award of Plaintiffs' attorney's fees, costs, and prejudgment interest pursuant to
13 the CVRA, Cal. Elec. Code § 14030 and other applicable law; and

14 5. For such further relief as the Court deems just and proper.
15

16 Dated: July 29, 2014

CAPPELLO & NOËL LLP

17
18 By: 

19 A. Barry Cappello
20 Leila J. Noël
21 Wendy D. Welkom
22 Attorneys for Plaintiffs
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