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 BOARD OF SUPERVISORS OF THE COUNTY OF MONTEREY;
 TONY ANCHUNDO, IN HIS CAPACITY AS MONTEREY COUNTY
 REGISTRAR OF VOTERS; AND THE COUNTY OF MONTEREY

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

WILLIAM MELENDEZ; KEN GRAY; JYL
 LUTES; CAROLYN ANDERSON; AND
 LANDWATCH MONTEREY COUNTY,

Plaintiffs/Petitioners,

vs.

BOARD OF SUPERVISORS OF THE COUNTY
 OF MONTEREY; TONY ANCHUNDO, IN HIS
 CAPACITY AS MONTEREY COUNTY
 REGISTRAR OF VOTERS; COUNTY OF
 MONTEREY; AND DOES 1 THROUGH 10,
 INCLUSIVE,

Defendants/Respondents.

) Case No: C 06-1730 JW

) ASSIGNED FOR ALL PURPOSES TO:
 HON. JAMES WARE

) **DEFENDANTS' REPLY TO MADRIGAL**
) **CASE PLAINTIFFS' MOTION FOR**
) **INJUNCTION**

) Date: March 21, 2006
) Time: 10:00 a.m.
) Dept: 8

1 **1. INTRODUCTION**

2 The motion for an injunction submitted by the *Madrigal* case Plaintiffs should be denied, not
3 because the legal arguments relating to the Federal Voting Rights Act lack merit, but because there is no
4 threat on the part of the Defendants that the actions Plaintiffs seek to enjoin will be taken. As set forth
5 in the Declaration of Defendant Tony Anchundo, and discussed extensively in the briefs relating to the
6 *Melendez* Plaintiffs' motions, the Board of Supervisors voted not to place the matter on the ballot. Since
7 the harm the *Madrigal* Plaintiffs seek to prevent is holding the election, there is consequently no
8 threatened harm to the *Madrigal* Plaintiffs from Defendants. While Defendants may disagree on certain
9 points raised in the *Madrigal* Plaintiffs' brief, they agree it is appropriate not to go forward with the
10 election and have acted accordingly. There is no need for an injunction.

11 **2. THERE IS NO THREAT OF COGNIZABLE HARM BY DEFENDANTS**

12 The most basic requirement of injunctive relief is that the plaintiff must show some danger of
13 cognizable harm by defendant. *United States v. W. T. Grant Co.*, 345 U.S. 629, 633 (1953); *U.S. v.*
14 *Nutri-Cology, Inc.*, 982 F. 2d 394, 397 (9th Cir. 1992) ("possibility of irreparable harm"). Such a
15 demonstration cannot be made by the *Madrigal* plaintiffs. The Board determined not to go forward with
16 the election. There is simply no evidence presented that there is any danger of harm to this group from
17 these Defendants. Indeed, the *Madrigal* Plaintiffs concede that these Defendants pose no threat of harm
18 to them. *Plaintiffs' Memorandum of Points and Authorities*, at page 10, line 14 to page 11, line 5. If the
19 harm of which they complain occurs, it will only be because the Court determines it is proper for the
20 election to go forward as a result of the *Melendez* Plaintiffs' arguments, not any voluntary act by the
21 Defendants. *Ibid.* Thus no treat of harm gives rise to injunctive relief against these Defendants. That is
22 especially the case considering the drastic nature of injunctive relief—making the Defendants subject to
23 contempt power for something they are not threatening to do.

24 The motion should be denied.
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2 **3. CONSOLIDATION**

3 Although it is Defendants' understanding that the Court intends to consolidate the two actions,
4 because a formal written order of consolidation has not yet been issued, this brief will be filed in both
5 the *Madrigal* and *Melendez* cases, to mirror the action that the *Madrigal* Plaintiffs seem to have taken.
6

7 Dated: March 20, 2006

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8 / S /

9 By: _____
10 STEPHEN N. ROBERTS

11 Attorneys for Defendants/Respondents
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14 MONTEREY COUNTY REGISTRAR OF VOTERS; AND
15 THE COUNTY OF MONTEREY
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