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Contact: Bilen Mesfin, LCCR, 415-543-9444 ext 206, bmesfin@lccr.com

Ilene J. Jacobs, CRLA, 530-742-7235, ijacobs@crla.org

Key Court of Appeals Ruling Sets Precedent Regarding Federal Fair Housing Act

SAN FRANCISCO, CA – In October, the Ninth Circuit Court of Appeals ruled that Latino residents could sue Stanislaus County for discrimination under the federal Fair Housing Act (FHA) for failing to provide adequate municipal services. In doing so, the court confirmed the reach of the FHA to include discrimination occurring after the initial acquisition of a dwelling.

“This is the first appellate court ruling that expressly applies the FHA to post-acquisition discrimination, and represents a major victory for civil rights plaintiffs,” said Brian Brosnahan, an attorney with Kasowitz, Benson, Torres & Friedman, who served as co-counsel in the case. “We’re delighted that our clients will get their day in court and we look forward to trying the case.”

Residents of predominantly Latino neighborhoods in Modesto, represented by the Lawyers’ Committee for Civil Rights of the San Francisco Bay Area and California Rural Legal Assistance, Inc., originally brought their case against Stanislaus County and the City of Modesto in 2004. The plaintiffs alleged that their neighborhoods, located in unincorporated islands that had been annexed around by the City of Modesto, received inferior municipal services (such as sewer, storm drainage, sidewalks, and emergency 911 services) and also faced certain legal barriers to annexation.

“Many of our rural clients must confront substandard, unequal municipal services because of their race or national origin,” said Ilene Jacobs, a director of litigation with California Rural Legal Assistance.

In August 2007, a federal district court dismissed all of the residents’ claims. The Ninth Circuit’s three-judge panel reversed that ruling, saying that residents in these neighborhoods could indeed sue the County under the FHA for its slow law enforcement response times. The Court also reversed the dismissal of claims against the City and the County for making annexation of the neighborhoods more difficult. Finally, the court vacated the dismissal of all of plaintiffs’ state law claims, including those relating to sewers, storm drainage, and sidewalks.

The Fair Housing Act, adopted in 1968, states it is illegal to “discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services

or facilities in connection therewith, because of race, color, religion, sex, familial status, or national origin.” Since 1968, most courts have allowed claims under the FHA alleging discrimination occurring after the initial acquisition of housing. In recent years, some courts have interpreted the FHA to apply only to discrimination that occurs during the purchasing phase of home ownership. However, the Court of Appeals ruled that the privileges, services and facilities associated with home ownership typically extend past the initial point of the sale, and should be protected as well. The Ninth Circuit is the first Court of Appeals to expressly hold that discrimination occurring after the initial acquisition of housing is covered under the FHA.

For more information or to request a copy of the decision, contact Bilen Mesfin at 415-543-9444, ext.206.

About the Lawyers’ Committee for Civil Rights of the San Francisco Bay Area (LCCR)

For more than 40 years, the Lawyers' Committee for Civil Rights has championed the legal rights of people of color, poor people, immigrants and refugees, with a special commitment to African-Americans. LCCR staff, working with hundreds of pro bono attorneys, provides free legal assistance and representation to individuals on civil legal matters. LCCR also helps advance civil rights by taking on vital cases that impact policy. For more information, www.lccr.com.

About California Rural Legal Assistance, Inc. (CRLA)

CRLA’s mission is to ameliorate rural poverty and ensure that rural communities have access to justice and provision of basic human rights. A statewide law non-profit law firm, CRLA provides legal assistance and community education and outreach services annually to more than 40,000 low income Californians. See crla.org for more information.

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