



## ***Pico Neighborhood Association, et al. v. City of Santa Monica***

**The Lawsuit:** In February 2017, plaintiffs Pico Neighborhood Association and Maria Loya filed a first amended complaint alleging that the City’s at-large electoral system for the City Council – adopted by the voters as part of the City Charter in 1946 – prevents Latino voters from electing candidates of their choice, in violation of the California Voting Rights Act (CVRA), and was adopted and has been maintained with the intent of discriminating against minority voters, in violation of the Equal Protection Clause of the California Constitution.

**The City’s At-Large Election System:** Under the City’s at-large election system, each voter may cast up to three votes in gubernatorial election years and up to four votes in presidential election years for City Council candidates of his or her choice. Every voter thus has a say as to who sits in each seat on the Council, and Council members are accountable to every voter. After adopting the at-large election system in 1946, Santa Monica voters have twice, in 1975 and in 2002, overwhelmingly rejected proposals to drop the at-large method of election in favor of a districted electoral scheme.

**The Trial Court’s Judgment:** After the first amended complaint was filed in February 2017, extensive pretrial proceedings ensued, and a trial was held from August 1, 2018, to September 13, 2018. On November 8, 2018, the trial court issued a tentative decision stating only that it had found in favor of plaintiffs on both causes of action, without any reasoning or citations to evidence or case law. The City requested a statement of decision. On February 13, 2019, the trial court adopted a proposed judgment and proposed statement of decision (with minor changes) written and submitted by the plaintiffs. The judgment holds in favor of plaintiffs on both their CVRA and Equal Protection allegations; enjoins the City from holding future at-large elections for City Council seats; orders that future elections for City Council be district-based and held in accordance with a seven-district map drawn by a hired expert for the plaintiffs; and requires the City to pay the plaintiffs’ attorneys’ fees.

**The City’s Arguments:** The City has objected to the trial court’s judgment on grounds including, but not limited to:

- In determining whether the City’s elections are characterized by “racially polarized voting” for purposes of the CVRA, the court erred in focusing exclusively on the performance of Latino (or Latino-surnamed) candidates. If the trial court had properly identified Latino voters’ candidates of choice—in part by acknowledging that in multiple elections, white candidates were preferred by Latino voters to an equal or greater extent than Latino candidates—it could not have concluded that Latino-preferred candidates are usually defeated. Moreover, under the at-large system, Latinos, who make up 13.6% of Santa Monica voters, have held at least one out of seven (14%) of the City’s Council seats since 2012.
- The trial court erred in concluding that the City’s at-large election system has diluted Latino voting power. To prove vote dilution, a plaintiff must show that a protected class would have greater opportunity to elect candidates of its choice under some other electoral system. In

Santa Monica, Latino voters account for just 13.6 percent of the voting population, and would comprise only 30 percent of the voting population in the purportedly remedial district ordered by the court. No court adjudicating a vote-dilution claim has ever ordered the creation of districts where the citizen-voting-age population of the relevant minority group in the purported remedial district would be this low. Further, the districting plan proposed by the plaintiffs and adopted by the trial court would dilute the voting strength of minority voters in the six other districts—where two-thirds of the City’s Latinos reside. Plaintiffs did not dispute that district-based elections would dilute the voting strength of African-American and Asian-American voters in Santa Monica.

- The trial court erred as a matter of law in concluding that plaintiffs had proven a violation of the Equal Protection Clause. Plaintiffs submitted no evidence, and the court made no findings, demonstrating that the City’s electoral system has caused a disparate impact on minority voters—i.e., that some alternative electoral system would have enhanced any minority group’s voting strength at any time in the City’s history. The court acknowledged that the adoption of the City’s current electoral system in the 1946 Charter was favored by every prominent local minority leader, but nevertheless somehow concluded that the Charter (which contained an explicit anti-discrimination provision) was motivated by an intent to discriminate against minorities. And, despite explicit statements favoring increased minority representation, the court somehow concluded that one City Council member’s vote not to put districting on the ballot in 1992 was also motivated by an intent to discriminate against minorities.
- The trial court adopted the districting plan drawn by plaintiffs’ expert, without public input, in violation of section 10010 of the Elections Code. That statute requires that a city changing from an at-large method of election to district-based elections—whether doing so voluntarily or, as here, under a court order—must hold a series of public hearings over the boundaries of potential districts. The trial court erred in refusing to allow the City to go through the inclusive, democratic process of public engagement mandated by law.

**The Appeal:** On February 22, 2019, the City filed a notice of appeal, asking the California Court of Appeal to review the trial court’s judgment. The parties agree that, while the appeal is pending, the portion of the trial court’s order requiring a district-based election on July 2, 2019, is stayed and will not take effect. The Court of Appeal has also confirmed that another portion of the trial court’s order prohibiting any person not elected in a district-based system from serving on the City Council after August 15, 2019, is similarly stayed while the appeal is pending. This page will be updated with information on the appellate briefing schedule after that schedule is set by the Court.

Additional information about this litigation is available here:

[www.santamonica.gov/Election-Litigation-PNA-V-Santa-Monica](http://www.santamonica.gov/Election-Litigation-PNA-V-Santa-Monica)

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