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18 SUPERIOR COURT OF THE STATE OF CALIFORNIA

19 FOR THE COUNTY OF LOS ANGELES

20 PICO NEIGHBORHOOD ASSOCIATION
AND MARIA LOYA,

21 Plaintiff,

22 v.

23 CITY OF SANTA MONICA and DOES 1-
24 100,

25 Defendants.

CASE NO. BC 616804 (filed Apr. 12, 2016)

**DEFENDANT CITY OF SANTA MONICA'S
SEPARATE STATEMENT OF
UNDISPUTED MATERIAL FACTS IN
SUPPORT OF MOTION FOR SUMMARY
JUDGMENT OR, IN THE ALTERNATIVE,
SUMMARY ADJUDICATION**

*Assigned To: Hon. Yvette M. Palazuelos
Department 28*

HEARING:

Date: June 14, 2018, 8:45 am
Reservation ID: 170614226861
Trial Date: July 30, 2018

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OF ORIGINAL FILED
Los Angeles Superior Court**

MAR 29 2018

Sherri R. Carter, Executive Officer/clerk

By Shaunya Bolden, Deputy

Pursuant to Code of Civil Procedure Section 437c, subdivision (b), and California Rule of Court 3.1350, Defendant City of Santa Monica respectfully submits this Separate Statement of Undisputed Material Facts, together with references to supporting evidence, in support of its Motion for Summary Judgment or, in the Alternative, Summary Adjudication:

ISSUE 1 – THE FIRST CAUSE OF ACTION FOR VIOLATION OF THE CALIFORNIA VOTING RIGHTS ACT, CAL. ELEC. CODE §§ 14025 *ET. SEQ.*, SHOULD BE RESOLVED IN FAVOR OF DEFENDANT BECAUSE PLAINTIFFS CANNOT ESTABLISH ANY VOTE DILUTION CAUSED BY DEFENDANT’S AT-LARGE METHOD OF ELECTION, AND TO THE EXTENT THE STATUTE ALLOWS FOR THE IMPOSITION OF LIABILITY NEVERTHELESS, THE STATUTE VIOLATES THE EQUAL PROTECTION CLAUSE OF THE UNITED STATES CONSTITUTION.

THE CITY OF SANTA MONICA’S UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	PLAINTIFF’S RESPONSE AND SUPPORTING EVIDENCE
1. In 1915, the City transitioned to an at-large, commission form of government. Under this system, voters elected three commissioners—one for public safety, a second for finance, and a third for public works. (Adler Decl. Ex. H (Shenkman Decl. in Opposition to Motion for Judgment on the Pleadings) p. 2.)	
2. In 1946, the City adopted its present council-mayor form of government. The Council consists of seven members. Elections are held every other year on an at-large basis. Terms run for four years. (Adler Decl. Ex. G (Santa Monica Charter) p. 9; FAC p. 2:8, ¶ 1, p. 5:20-22, ¶ 16, p. 5:27-28, ¶ 18.)	
3. Under the at-large method of election, all eligible voters in the City elect the members of the City Council. (FAC p. 5:25-26, ¶ 17.)	
4. Eligible Latino voters comprise only one in eight people in the City’s population, or roughly thirteen percent of the City’s	

1	population. (<i>Id.</i> at p. 5:19, ¶ 15; Adler Decl. Ex. AA (Morrison Decl.) p. 4, ¶ 13.)	
2		
3	5. Latinos share of eligible voters each year is several percentage points below Latinos' corresponding share of all residents. (Morrison Decl. p. 4, ¶ 13.)	
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6	6. Latinos are widely dispersed across the City. They account for at least one in ten adults in thirty-three of the City's fifty-six election precincts. (<i>Id.</i> at p. 6, ¶ 14.)	
7		
8		
9	7. They do not account for the majority of residents in any of Santa Monica's precincts. The highest level of Latino concentration is observed in precinct #6250061A, where Latinos constitute 48.6% of adults. The next highest concentration is in precinct #6250071A, where Latinos constitute 33.7% of adults. (<i>Ibid.</i>)	
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14	8. Latinos' dispersed residential pattern alone casts considerable doubt on the possibility that any contiguous aggregation of territory in the City could assemble a Latino majority among the eligible voter population of any district. (<i>Id.</i> at pp. 7-8, ¶ 15.)	
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18	9. The percentage of Latino voters in any hypothetical district could be no larger than 31.6%. (<i>Id.</i> at p. 10, ¶ 23.)	
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20		
21	10. That district would contain only one of every three Latino voters, leaving two of three Latinos among other predominantly non-Latino voters, thereby systematically devaluing Latinos' votes everywhere else in the City. (<i>Id.</i> at p. 12, ¶ 26.)	
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25	11. A 31.6% Latino district would have bizarre boundaries, lacking compactness. (<i>Id.</i> at p. 10, ¶ 23.)	
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28	12. The only option to refine those boundaries would be to amputate the least populous leg of the district, eliminating 900 eligible	

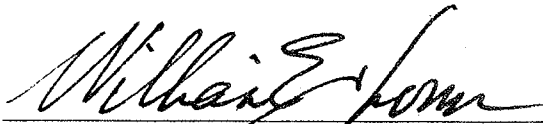
1	voters, and leaving the hypothetical district with 31.3% eligible Latino voters. Even this version of the hypothetical district is severely lacking in compactness. (<i>Id.</i> at p. 10, ¶¶ 23-24.)	
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4		
5	13. Only one in approximately twenty-five of the City's eligible voters, or 4.4% of the City's eligible voters, is non-Hispanic black. (FAC p. 9:12-13, ¶ 27; Morrison Decl. p. 13, ¶ 29.)	
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7		
8	14. The City's non-Hispanic black population is widely distributed across the City. (Morrison Decl. p. 13, ¶ 29.)	
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10		
11	15. Areas of the City where non-Hispanic black individuals are concentrated do not generally overlap with areas where Latinos are concentrated. (<i>Id.</i> at p. 13, ¶ 30.)	
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13		
14	16. The lack of overlap of Latinos and non-Hispanic black residents alone casts doubt on the ability to create a contiguous aggregation of territory within the City where there could be a Latino-plus-black majority among the eligible voter population. (<i>Ibid.</i>)	
15		
16		
17		
18	17. Even combined, Latinos and non-Hispanic blacks do not constitute the majority of any precinct. The concentration of Latino and non-Hispanic black voters cannot possibly exceed forty-one percent of any district's eligible voters. (<i>Id.</i> at p. 15, ¶ 33.)	
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22	18. A district with even forty-one percent non-Hispanic black and Latino eligible voters would necessarily have bizarre boundaries, and be severely lacking in compactness. (<i>Id.</i> at p. 3, ¶ 9.)	
23		
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26	19. The proposed non-Hispanic black and Latino district would relegate seventy-two percent of the City's Latino voters, and fifty-seven percent of the City's non-Hispanic black voters, to territory outside of that hypothetical district. (<i>Id.</i> at p. 16, ¶ 34.)	
27		
28		

1		
2	20. This would submerge seventy-two percent of Latinos and fifty-seven percent of non-	
3	Hispanic black voters among other	
4	predominantly non-Latino voters, and would	
5	devalue the votes of most Latinos and non-	
6	Hispanic blacks in the City. (<i>Id.</i> at p. 16, ¶	
7	36.)	
8		
9	21. Slightly improving compactness issues in	
10	such a hypothetical district, which almost	
11	certainly would be required, would take the	
12	Latino or non-Hispanic black share of the	
13	vote to 39.6%. (<i>Id.</i> at pp. 15-16, ¶ 33.)	
14	ISSUE 2 – THE SECOND CAUSE OF ACTION FOR VIOLATION OF THE CALIFORNIA	
15	CONSTITUTION’S EQUAL PROTECTION CLAUSE SHOULD BE RESOLVED IN FAVOR	
16	OF DEFENDANT BECAUSE PLAINTIFFS HAVE NO EVIDENCE THAT THE CITY’S	
17	ELECTORAL SCHEME CAUSES A DISPARATE IMPACT ON MINORITIES THAT WAS	
18	INTENDED BY THE RELEVANT CONTEMPORANEOUS DECISIONMAKERS.	
19	THE CITY OF SANTA MONICA’S	PLAINTIFF’S RESPONSE AND
20	UNDISPUTED MATERIAL FACTS AND	SUPPORTING EVIDENCE
21	SUPPORTING EVIDENCE	
22	22. This section incorporates by reference all	
23	statements in paragraphs 1-21 of this	
24	Statement of Undisputed Material Facts.	
25		
26	23. No districted electoral scheme could have	
27	produced results more favorable to	
28	minorities. (<i>Id.</i> at pp. 12-13, ¶ 27, p. 16, ¶	
	37.)	

DATED: March 29, 2018

GIBSON, DUNN & CRUTCHER LLP

By:



William E. Thomson

Attorneys for Defendant,
CITY OF SANTA MONICA

1 **PROOF OF SERVICE**

2 I, Cynthia Britt, declare as follows:

3 I am employed in the County of Los Angeles, State of California, I am over the age of
4 eighteen years and am not a party to this action; my business address is 333 South Grand Avenue,
5 Los Angeles, CA 90071-3197, in said County and State. On March 29, 2018, I served the following
6 document(s):

7 **DEFENDANT CITY OF SANTA MONICA'S SEPARATE STATEMENT OF
8 UNDISPUTED MATERIAL FACTS IN SUPPORT OF MOTION FOR
9 SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, SUMMARY
10 ADJUDICATION**

11 on the parties stated below, by the following means of service:

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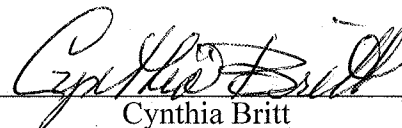
27 **BY UNITED STATES MAIL:** I placed a true copy in a sealed envelope or package addressed to the persons as
28 indicated above, on the above-mentioned date, and placed the envelope for collection and mailing, following our
ordinary business practices. I am readily familiar with this firm's practice for collecting and processing
correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is
deposited with the U.S. Postal Service in the ordinary course of business in a sealed envelope with postage fully
prepaid. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or
postage meter date is more than one day after date of deposit for mailing set forth in this declaration.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in
the mail in Los Angeles, California.

BY ELECTRONIC SERVICE: As a courtesy, I caused the documents to be sent to the person(s) at the
electronic service address(es) listed above.

(STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is
true and correct.

Executed on March 29, 2018, in Los Angeles, California.


Cynthia Britt