

***VIA ELECTRONIC FILING***

July 9, 2018

California Court of Appeal  
Second Appellate District, Division Eight  
Ronald Reagan State Building  
300 South Spring Street  
2nd Floor, North Tower  
Los Angeles, California 90013

Re: **City of Santa Monica v. Superior Court of Los Angeles County**  
**Court of Appeal Case No. B291048**  
**Trial Court Case No. BC616804**

Dear Justices of the Court,

We are counsel to Pico Neighborhood Association and Maria Loya, plaintiffs before the trial court and real parties in interest in this writ proceeding. Plaintiffs respectfully request that the court summarily deny the City of Santa Monica's writ petition for the reasons briefly discussed below, related solely to the lack of any need for *writ* relief. If invited, however, we would be delighted to respond preliminarily or more fully in an opposition to the petition, which purports to challenge the trial court's June 19, 2018 orders denying the City of Santa Monica's motion for summary judgment and motion for relief pursuant to Section 473 of the Code of Civil Procedure.

In its petition, the City of Santa Monica ("Petitioner") advances five rationales for granting writ relief rather than an appeal following the conclusion of trial: 1) "the trial court's order is both clearly erroneous and substantially prejudices petitioner's case"; 2) Petitioner "lacks an adequate means, such as a direct appeal, by which to attain relief"; 3) Petitioner "will, absent writ relief, suffer harm or prejudice in a manner that cannot be corrected on appeal"; 4) "to prevent the avoidable and significant waste of judicial and taxpayer resources in litigating this meritless case through trial; and 5) the writ "presents an issue of widespread interest." (Writ Petition, pp. 21-28, ¶¶ 18-21, 28). None of these rationales hold water.

The first four of Petitioner's rationales (listed above) can be boiled down to its desire to avoid a trial on the merits, and apparent belief that enduring a trial, after

which it could appeal as a matter of right, would constitute great hardship. But Petitioner's argument ignores the fact that all of the evidence and argument that it sought to present through its summary judgment motion, can still be presented at trial. In fact, if Petitioner is as confident in its summary judgment argument as it claims, Petitioner can simply present its summary judgment evidence and argument at trial, with nothing more. That would not require Petitioner to endure any great expense at all – certainly less than an interlocutory appeal. Or, perhaps Defendant is not so confident in its summary judgment argument because that argument defies the text and legislative history of the California Voting Rights Act and all of the appellate authority addressing that law.

Moreover, while Petitioner laments the “significant waste of judicial and taxpayer resources” (Writ Petition, p. 27, ¶ 28) that it claims would result from allowing the Trial Court to adjudicate this case on the merits after all evidence is presented at trial, its writ petition only serves to multiply all parties' expenses and consume more judicial resources. Certainly, the same argument Petitioner makes about judicial efficiency warranting writ relief here, could be made in any case with equal force by any litigant unhappy with a trial court's denial of its summary judgment motion.

And the last of Petitioner's rationales – that the “petition presents an issue of widespread interest” – is similarly misguided. To be sure, Santa Monica's unlawful system of electing its city council may be a matter of significant public interest, but this writ petition presents only the issue of what are the consequences of Petitioner failing to timely file and serve its summary judgment motion. That is hardly an issue of widespread interest. Indeed, if a great number of attorneys are interested in the narrow issue presented by this writ petition, perhaps those attorneys should take more of an interest in checking their calendars to make sure they comply with time deadlines in the first place. Only after the Trial Court has weighed the evidence and made the requisite factual findings can this Court address the real issue of interest – Santa Monica's unlawful election system - on a full record.

For these reasons, we respectfully urge that this court summarily deny the City of Santa Monica's writ petition. We also respectfully reserve the balance of our arguments should the court desire briefing on the merits of the writ petition.

With kind regards,  
**SHENKMAN & HUGHES PC**



Kevin Shenkman  
*Attorneys for Plaintiffs – Real Parties in Interest*