

No. S263972

**IN THE SUPREME COURT  
OF THE STATE OF CALIFORNIA**

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CITY OF SANTA MONICA,  
*Defendant and Appellant,*

v.

PICO NEIGHBORHOOD ASSOCIATION; MARIA LOYA,  
*Plaintiffs and Respondents.*

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**CITY OF SANTA MONICA'S RESPONSE TO PLAINTIFFS'  
MOTION FOR JUDICIAL NOTICE**

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After a Decision by the Court of Appeal  
Second Appellate District, Division Eight, Case No. B295935  
Los Angeles County Superior Court Case No. BC616804  
The Hon. Yvette M. Palazuelos, Judge Presiding  
Gov't Code, § 6103

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The City of Santa Monica does not oppose plaintiffs’ motion for judicial notice of the legislative history of the California Voting Rights Act.

Because plaintiffs filed their motion in connection with their reply brief, rather than their opening brief, the City had no opportunity to respond to it in connection with its answer brief on the merits. Accordingly, the City will now briefly note a handful of points made clear by the legislative history:

- 1) The CVRA does not create a cause of action for every minority group, no matter how small, that can show a bare difference in voting patterns between minority voters and majority voters. Instead, there must be a legitimate basis to conclude that the minority group’s lack of electoral success is due to at-large voting—not merely small numbers. To that end, the following question repeatedly appears in the legislative history: “If a minority community is not sufficient geographically compact to ensure that it can elect one of their members from a district, what is gained by eliminating the at-large election system?” (Ex. A at p. 38 [Analysis of Senate Committee on Elections and Reapportionment]; accord, e.g., *id.* at p. 98 [Senate Republican Commentaries]; *id.* at p. 126 [Senate Bill Analysis].) The legislative history also reflects an intent to address the scenario where a minority community accounts for a *near-majority* of eligible voters in a hypothetical district—that community would not have a remedy under federal law, even though it would be able to elect candidates of its choice (or at least meaningfully

influence electoral outcomes) in the hypothetical district. As the bill's sponsor wrote to Governor Davis in urging him to sign the bill, "If the minority community were at 49 percent, then the federal courts cannot provide a remedy." (Ex. A at p. 100 [letter from Senator Polanco to Governor Davis].)

- 2) The CVRA does not require the wholesale abandonment of at-large elections. "Unlike prior unsuccessful measures concerned with at-large election methods, this bill would not mandate that any political subdivision convert an at-large system to a single-member district system. Rather, this bill simply prohibits the abridgment or dilution of minority voting rights." (Ex. A at p. 59 [Bill Analysis of Assembly Committee on Judiciary]; accord, e.g., *id.* at p. 86 [Enrolled Bill Report, Governor's Office of Planning and Research, noting that "Governor Davis vetoed [an earlier bill] stating that 'the decision to create single-member [districts] is best made at the local level, not by the state'"].)
- 3) The CVRA was aimed at combating the dilution of minority voting power. "This measure provides voters with a cause of action to challenge at-large elections when it can be shown be shown that a minority's voting rights have been abridged or diluted. . . . While this legislation is far from perfect, it does provide state courts with the ability to fashion remedies for minorities when their votes are unfairly diluted by the use of at-large

election[s].” (Ex. A at p. 75 [letter from Gray Davis to California State Senate]; accord, e.g., Ex. A at p. 61 [Bill Analysis of Assembly Committee on Judiciary].)

DATED: May 26, 2021

Respectfully submitted,

GIBSON, DUNN & CRUTCHER LLP

By:     /s/ Kahn Scolnick      
Kahn Scolnick

*Attorneys for Defendant and  
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**PROOF OF SERVICE**

I, Daniel R. Adler, declare as follows:

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years, and I am not a party to this action. My business address is 333 South Grand Avenue, Los Angeles, California 90071-3197. On May 26, 2021, I served:

**CITY OF SANTA MONICA'S RESPONSE TO  
PLAINTIFFS' MOTION FOR JUDICIAL NOTICE**

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

**SEE ATTACHED SERVICE LIST**

- BY ELECTRONIC SERVICE:** A true and correct copy of the above-titled document was electronically served on the persons listed on the attached service list.
  
- (STATE)** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 26, 2021.



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**Respondents' Counsel**

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