

No. S263972

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

---

PICO NEIGHBORHOOD ASSOCIATION; MARIA LOYA,

*Plaintiffs and Respondents,*

v.

CITY OF SANTA MONICA,

*Defendant and Appellant.*

---

**AMICI CURIAE THE LEAGUE OF WOMEN  
VOTERS OF SANTA MONICA, THE ALLIANCE OF  
SANTA MONICA LATINO AND BLACK VOTERS,  
HUMAN RELATIONS COUNCIL SANTA MONICA  
BAY AREA, AND COMMUNITY FOR EXCELLENT  
PUBLIC SCHOOLS' APPLICATION FOR LEAVE TO  
FILE REPLY IN SUPPORT OF THEIR REQUEST  
FOR JUDICIAL NOTICE; [PROPOSED] REPLY**

---

After a Decision by the Court of Appeal  
Second Appellate District, Division Eight, Case No. BC295935  
Los Angeles County Superior Court Case No. BC616804  
The Honorable Yvette M. Palazuelos, Judge Presiding

---

CHRISTOPHER M. HARDING  
(76681)  
harding@hlkklaw.com  
1250 Sixth Street, Suite 200  
Santa Monica, California 90401  
Telephone: (310) 393-1007

THE LAW OFFICE OF JOSEPH PERTEL  
JOSEPH A. PERTEL (181657)  
jperitel@yahoo.com  
2801 Ocean Park Boulevard, #276  
Santa Monica, California 90405  
Telephone: (310) 503-5791

*Attorneys for Amici Curiae The League of  
Women Voters of Santa Monica, et al.*

**AMICI CURIAE'S APPLICATION FOR LEAVE  
TO FILE REPLY IN SUPPORT OF  
REQUEST FOR JUDICIAL NOTICE**

Amici Curiae the League of Women Voters of Santa Monica, the Alliance of Santa Monica Latino and Black Voters, the Human Relations Council Santa Monica Bay Area, and Community for Excellent Public Schools (collectively “Amici”) request that the Court grant leave to file the following reply in support of their pending Request for Judicial Notice.

While the California Rules of Court do not specifically provide for reply briefs in support of motions in the Supreme Court, this Court previously permitted plaintiffs to file a reply brief in support of their own motion for judicial notice. (*See* June 4, 2021 Order.)

Good cause exists to permit Amici to reply to plaintiffs’ opposition to Amici’s Request for Judicial Notice in that plaintiffs misstate and mischaracterize Amici’s purpose in filing their Request for Judicial Notice.

**[PROPOSED] REPLY IN SUPPORT OF AMICI CURIAE'S  
REQUEST FOR JUDICIAL NOTICE**

Plaintiffs’ counsel, having touted their success in asserting dozens of CVRA claims against local jurisdictions throughout California (including threatened litigation and, more rarely, actual litigation),<sup>1</sup> suddenly have a case of cold feet when faced with the most recent example of their threatened CVRA litigation as to the City of Irvine.

---

<sup>1</sup> *See e.g.*, Plaintiffs’ Petition for Review at p. 12.

Amici submitted their Request for Judicial Notice of the recent Irvine CVRA correspondence to supplement the record concerning the pattern and practice of litigation threats under the CVRA. The parties' briefs (including plaintiffs') and various amicus briefs have all contributed to the record in this respect.<sup>2</sup> For example, as the amicus brief filed by the League of California Cities and the California Special Districts Association notes, 126 cities and 27 independent special districts had converted from at-large to district elections as of May 2020 in response to CVRA threats and actual litigation.<sup>3</sup> And such CVRA threats continue to be issued.

The threatened CVRA litigation in Irvine fits and helps to illustrate this real-world pattern and practice of such litigation threats for the Court. Amici submit that the Court will benefit from being aware of CVRA practice to the fullest extent possible (including in Irvine) as the Court prepares to rule on the question presented by its grant of review: "What must a Plaintiff prove in order to establish vote dilution under the California Voting Rights Act?"

Moreover, the Irvine correspondence serves to illustrate the CVRA's susceptibility to abuse in the absence of a clear and objective vote dilution standard that distinguishes at-large elections that violate the CVRA from those that do not. The lack of such a standard has contributed to the 20-year pattern and

---

<sup>2</sup> See *e.g.*, Plaintiffs' Opening Brief at p. 72.

<sup>3</sup> Amicus Brief by League of California Cities and the California Special Districts Association at p. 9, fn. 5.

practice of threatened (and actual) CVRA litigation of which the Irvine letters are a recent part.

In reviewing amici submittals of information outside of the formal appellate record, this Court has explained:

“Amicus curiae presentations assist the court by broadening its perspective on the issues raised by the parties. Among other services, they facilitate informed judicial consideration of a wide variety of information and points of view that may bear on important legal questions. For these reasons, we are inclined, except in cases of obvious abuse of the amicus curiae privilege, not to employ orders to strike as a means of regulating their contents.” (*Bily v. Arthur Young & Co.* (1992) 3 Cal.4th 370, 405, fn. 14.)

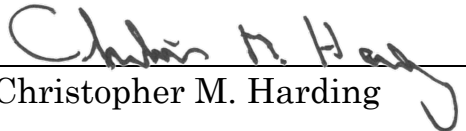
Amici submit that the two Irvine letters arguing about the CVRA clearly fall within the boundaries of the foregoing standard.

Amici, of course, are not asking this Court to adjudicate the merits of the threatened CVRA challenge in Irvine. Presumably, the Irvine dispute (as well as plaintiffs’ counsel’s threatened CVRA litigation in Malibu) will be resolved after this Court issues its opinion concerning vote dilution in the case at hand. No excessive time is needed for the Court to read the two letters (totaling 9 pages) and observe the arguments made therein.

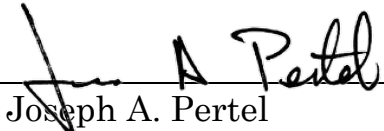
Accordingly, Amici urge the Court to overrule the plaintiffs' objections and grant Amici's Request for Judicial Notice of the Irvine correspondence.

Dated: June 24, 2021

Respectfully submitted,

  
Christopher M. Harding

LAW OFFICE OF JOSEPH  
PERTEL

By:   
Joseph A. Pertel

*Attorneys for Amici Curiae  
The League of Women Voters  
of Santa Monica, the Alliance  
of Santa Monica Latino and  
Black Voters, the Human  
Relations Council Santa  
Monica Bay Area, and  
Community for Excellent  
Public Schools*

Document received by the CA Supreme Court.

**PROOF OF SERVICE**

I, Christopher M. Harding, 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 address is 1250 Sixth Street, Suite 200, Santa Monica, California 90401. On June 24, 2021, I served:

**AMICI CURIAE THE LEAGUE OF WOMEN VOTERS OF SANTA MONICA, THE ALLIANCE OF SANTA MONICA LATINO AND BLACK VOTERS, HUMAN RELATIONS COUNCIL SANTA MONICA BAY AREA, AND COMMUNITY FOR EXCELLENT PUBLIC SCHOOLS' APPLICATION FOR LEAVE TO FILE REPLY IN SUPPORT OF THEIR REQUEST FOR JUDICIAL NOTICE; [PROPOSED] REPLY**

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

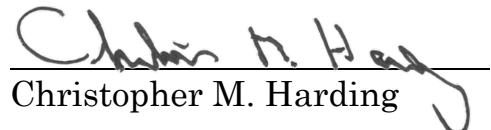
**Via Electronic Filing/Submission:**

*(Via electronic submission through the TrueFiling web page at [www.truefiling.com](http://www.truefiling.com))*

**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.
- BY U.S. MAIL:** By placing a true copy of the document(s) listed above for collection and mailing in a sealed envelope with postage thereon fully prepaid for deposit in the United States mail at Santa Monica, California addressed as indicated 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 June 24, 2021.

  
Christopher M. Harding

Document received by the CA Supreme Court.

## SERVICE LIST

### Plaintiffs' Counsel

Morris J. Baller (48928)

[mballer@gbdhlegal.com](mailto:mballer@gbdhlegal.com)

Laura L. Ho (173179)

[lho@gbdhlegal.com](mailto:lho@gbdhlegal.com)

Anne Bellows (293722)

[abellows@gbdhlegal.com](mailto:abellows@gbdhlegal.com)

GOLDSTEIN, BORGEN,

DARDARIAN & HO

300 Lakeside Dr., Suite 1000

Oakland, California 94612

Tel: 510-763-9800

### Method of service

Electronic service

Kevin Shenkman (223315)

[kshenkman@shenkmanhughes.com](mailto:kshenkman@shenkmanhughes.com)

Mary Hughes (222662)

[mrhughes@shenkmanhughes.com](mailto:mrhughes@shenkmanhughes.com)

SHENKMAN & HUGHES PC

28905 Wight Road

Malibu, California 90265

Tel: 310-457-0970

Electronic service

Milton Grimes (59437)

[miltgrim@aol.com](mailto:miltgrim@aol.com)

LAW OFFICES OF MILTON

C. GRIMES

3774 West 54th Street

Los Angeles, California 90043

Tel: 323-295-3023

Electronic service

R. Rex Parris (96567)

[rrparris@parrislawyers.com](mailto:rrparris@parrislawyers.com)

Ellery Gordon (316655)

[egordon@parrislawyers.com](mailto:egordon@parrislawyers.com)

PARRIS LAW FIRM

43364 10th Street West

Lancaster, California 93534

Tel: 661-949-2595

Electronic service

Robert Rubin (85084)  
[robertrubinsf@gmail.com](mailto:robertrubinsf@gmail.com)  
LAW OFFICE OF ROBERT  
RUBIN  
237 Princeton Avenue  
Mill Valley, CA 94941-4133  
Tel: 415-298-4857

Electronic service

**City of Santa Monica's Counsel**

George Cardona (135439)  
[George.Cardona@smgov.net](mailto:George.Cardona@smgov.net)  
CITY OF SANTA MONICA  
1685 Main Street, Room 310  
Santa Monica, California 90401  
Tel: 310-458-8336

Electronic service

Theodore J. Boutrous Jr. (132099)  
[TBoutrous@gibsondunn.com](mailto:TBoutrous@gibsondunn.com)  
Marcellus A. Mcrae (140308)  
[MMcrae@gibsondunn.com](mailto:MMcrae@gibsondunn.com)  
Kahn A. Scolnick (228686)  
[KScolnick@gibsondunn.com](mailto:KScolnick@gibsondunn.com)  
Tiaunia N. Henry (254323)  
[THenry@gibsondunn.com](mailto:THenry@gibsondunn.com)  
Daniel R. Adler (306924)  
[DAdler@gibsondunn.com](mailto:DAdler@gibsondunn.com)  
GIBSON, DUNN & CRUTCHER LLP  
333 South Grand Avenue  
Los Angeles, California 90071  
Tel: 213-229-7000

Electronic service

**Trial court**

Hon. Yvette M. Palazuelos  
Judge Presiding  
Los Angeles County Superior  
Court  
312 North Spring Street  
Los Angeles, CA 90012  
Tel: 213-310-7009

Mail service