No. S263972

In the

Supreme Court

of the

State of California

City of Santa Monica,
Defendant and Appellant,
v.
Pico Neighborhood Association, *et al.,*
Plaintiffs and Respondents,

PLAINTIFFS AND RESPONDENTS PICO NEIGHBORHOOD ASSOCIATION AND MARIA LOYA'S RESPONSE TO THE AMICUS CURIAE BRIEF OF ATTORNEY GENERAL ROB BONTA

After a Decision of the Court of Appeal
Second Appellate District, Division Eight
Case No. BC295935 (DEPUBLISHED)

Appeal from the Superior Court of Los Angeles
Case No. BC616804
Honorable Yvette M. Palazuelos

Morris J. Baller, Of Counsel (SBN 048928)
mballer@gbdhlegal.com
Laura L. Ho (SBN 173179)
lho@gbdhlegal.com
Anne P. Bellows (SBN 293722)
abellows@gbdhlegal.com
Ginger L. Grimes (SBN 307168)
ggrimes@gbdhlegal.com
GOLDSTEIN, BORGEN, DARDARIAN & HO
155 Grand Avenue, Suite 900
Oakland, CA 94612
Tel: (510) 763-9800 | Fax: (510) 835-1417

Kevin I. Shenkman (SBN 223315)
kshenkman@shenkmanhughes.com
Mary R. Hughes (SBN 222662)
mrhughes@shenkmanhughes.com
Andrea A. Alarcon (SBN 319536)
aalarcon@shenkmanhughes.com
SHENKMAN & HUGHES
28905 Wright Road
Malibu, CA 90265
Tel: (310) 457-0970

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

R. Rex Parris (SBN 96567)
PARRIS LAW FIRM
43364 10th Street West
Lancaster, CA 93534
Tel: (661) 949-2595

Milton C. Grimes (SBN 59437)
LAW OFFICES OF MILTON C. GRIMES
3774 West 54th Street
Los Angeles, CA 90043
Tel: (323) 295-3023

Attorneys for Plaintiffs-Respondents Pico Neighborhood Association and Maria Loya

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I. INTRODUCTION

In their opening brief, Plaintiffs offered two viable interpretations of the California Voting Rights Act ("CVRA"). (Petitioners' Opening Brief ("OB")-40-47.) Though different in their approach, the result of each interpretation is the same—plaintiffs prevail on a CVRA claim by showing: (1) racially polarized voting in an at-large jurisdiction, alone or in combination with other qualitative factors, and (2) an alternative election method would afford the protected class the opportunity to "elect candidates of its choice" or "influence the outcome of an election" they were not previously afforded. (OB-40.)

The Attorney General agrees with the second of those interpretations. As Plaintiffs explain in their opening brief, that interpretation requires a CVRA plaintiff to establish dilution by "showing racially polarized voting, either alone or in combination with the 14028(e) factors, as well as a benchmark election system that would afford the minority community a greater opportunity to elect candidates of its choice or exercise a meaningful if not decisive influence over election outcomes." (OB-45.) Though stated differently, the Attorney General similarly argues "racially polarized voting is a part of proving a CVRA violation," and additionally that "[t]o prove a CVRA violation, a protected class must demonstrate that under the at-large voting system, it is deprived of the

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ability to meaningfully influence the outcome of an election it would have" under a different system. (Attorney General Amicus Brief, pp. 11-12.)

What the CVRA does not require is that plaintiffs show the minority community is geographically concentrated enough to comprise the majority, or near-majority, of a single-member district. Plaintiffs made this point in their Opening Brief (OB-20, 35-41, 67) and Reply Brief ("RB") (RB-12-16), and the Attorney General likewise makes the same point in his amicus brief (pp. 16-19.) As Plaintiffs and the Attorney General explain, the Court of Appeal was wrong to require a potential majority-minority district, and Defendant is wrong in arguing that a "near-majority" district is required by the CVRA. (Attorney General Amicus Brief, at pp. 16-24; OB-20, 35-41, 67; RB-12-23.) As Plaintiffs explain, and the Attorney General agrees, such a requirement would contradict the text, history and purpose of the CVRA, and is not necessary to ensure that the CVRA meets all constitutional standards. (*Id.*)

The Attorney General also agrees with Plaintiffs that determining whether an at-large election system dilutes minority votes in violation of the CVRA requires "a searching practical evaluation of the past and present reality, and should be guided by localized data and objective standards." (Compare OB-47-48 and Attorney General Amicus Brief, at p. 24.) Like Plaintiffs, the Attorney General suggests a variety of factors that a court may consider in deciding whether a different election system will afford

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minority voters the electoral influence that the at-large system denied. (OB-47-56; Attorney General Amicus Brief, at pp. 24-26.) Many of those factors are the same as those suggested by Plaintiffs. (*Id.*)

In this case, the trial court considered each of the factors suggested by the Attorney General and concluded that "the at-large election system in Santa Monica results in Latinos having less opportunity than non-Latinos to elect representatives of their choice to the city council." (24AA10689.) That factual finding, based on the trial court's searching practical inquiry, is entitled to deference, is supported by substantial evidence, and should therefore be upheld by this Court.

II. THE ATTORNEY GENERAL IS CORRECT: THE COURT OF APPEAL'S MAJORITY-DISTRICT REQUIREMENT, AND DEFENDANT'S PROPOSED NEAR-MAJORITY DISTRICT REQUIREMENT, ARE BOTH CONTRARY TO THE TEXT OF THE CVRA.

The Attorney General convincingly explains that the Court of Appeal's interpretation of the CVRA is wrong (Attorney General Amicus Brief, at pp. 16-17), and that Defendant's interpretation is equally wrong for the same reasons (*Id*. at pp. 17-24). As Plaintiffs have already explained (see OB-20, 35-41, 67; RB-12-23), those interpretations conflict with the text, history and purpose of the CVRA by conditioning CVRA liability on an arbitrary level of geographic concentration of the minority community. (See Elec. Code, § 14028(c) ["The fact that members of a protected class are not geographically compact or concentrated may not

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preclude a finding of racially polarized voting, or a violation of Section 14027 and this section …"].)

The Attorney General also correctly explains, as Plaintiffs have already shown (see RB-16-23), that neither the majority-minority district requirement applied by the Court of Appeal, nor the "near-majority standard" proposed by Defendant, is necessary to avoid concerns over the constitutionality of the CVRA. (Attorney General Amicus Brief, at pp. 20-24.) Again, Plaintiffs agree.[1]

III. THE ATTORNEY GENERAL IS CORRECT: DETERMINING VOTE DILUTION REQUIRES A FACT-INTENSIVE INQUIRY.

The Attorney General also explains that any "strictly mechanical test" for determining vote dilution would "cause tension with the statutory language and purpose and hinder the accurate identification of vote

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[1] Despite Plaintiffs' general agreement with the Attorney General's position, Plaintiffs feel compelled to correct an error in the Attorney General's brief. At page 22, the Attorney General describes *Bartlett v. Strickland* (2009) 556 U.S. 1 as considering whether an at-large election system violated the federal Voting Rights Act ("FVRA"). *Bartlett* did not address an at-large election system; on the contrary, it addressed a particular single-member district configuration. In *Bartlett*, North Carolina drew a 39% African American district, purportedly to satisfy the FVRA, where adherence to the State's whole-county provision would have resulted in a 35% African American district instead. (*Id*. at p. 8.) Since 39% is less than the 50% threshold to meet the first prong of the *Gingles* test, the U.S. Supreme Court found Section 2 of the FVRA inapplicable. (*Id*. at pp. 19-20.) This minor correction does not in any way undermine the Attorney General's point that "*Bartlett* does not [] support the City's arguments as to how California's state statute should be interpreted." (Attorney General Amicus Brief, at pp. 22-24.)

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dilution." (Attorney General Amicus Brief, at p. 24.) Rather, that determination requires a "flexible" "highly fact-dependent" approach. (*Id*.) Again, Plaintiffs agree. (See OB-47-48.)

As with most voting rights issues, a trial court's determination of vote dilution under the CVRA, including the evaluation of whether "an at-large voting system has precluded a protected class's meaningful ability to influence electoral outcomes" (Attorney General Amicus Brief, at p. 24), requires "a searching practical evaluation of the past and present reality," and should be guided by localized data and objective standards. (*Thornburg v. Gingles* (1986) 478 U.S. 30, 45; see also Grofman, Handley & Lublin, *Drawing Effective Minority Districts: A Conceptual Framework and Some Empirical Evidence* (2001) 79 N.C. L.Rev. 1383, 1423 ["A case-specific functional analysis … must be conducted to determine the percentage minority necessary to create an effective minority district."].) That "searching practical evaluation" may differ in minor respects between cases, but the text of the CVRA (Elec. Code § 14028), the Attorney General's Amicus brief (pp. 24-26), and Plaintiffs' Opening brief (OB-48-56) all identify objective factors that may guide trial courts' decisions.

Because the determination of vote dilution requires, in the Attorney General's words, a "flexible approach" that is "highly fact-dependent" and "turn[s] on the totality of circumstances and facts of a specific case" (Attorney General Amicus Brief, at p. 24), a trial court's factual findings on

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the subject of dilution are entitled to deference, and should be reviewed by appellate courts only for substantial evidence. (See *Jauregui v. City of Palmdale* (2014) 226 Cal.App.4th 781, 792 [citing cases describing the substantial evidence standard – "The trial court's dilution findings are presumed to be correct."] accord *Gingles, supra,* 478 U.S. at p. 78 ["the ultimate finding of vote dilution [is] a question of fact subject to the clearly-erroneous standard"].)

IV. THE TRIAL COURT IN THIS CASE CONSIDERED EACH OF THE FACTORS IDENTIFIED BY THE ATTORNEY GENERAL IN FINDING THAT DEFENDANT'S AT-LARGE ELECTION SYSTEM DILUTES LATINO VOTES.

While the Attorney General does not consider the particular facts of this case (see Attorney General Amicus Brief, at p. 7), applying the Attorney General's proposed test to the trial court's factual findings, compels the conclusion that Defendant's at-large elections violate the CVRA. The trial court considered each of the factors the Attorney General advises a court "should" or "can" consider, and based on its searching practical evaluation of all those factors, the trial court concluded:

> Even if "dilution" were an element of a CVRA claim, separate and apart from a showing of racially polarized voting, the evidence still demonstrates dilution by the standard proposed by Defendant in its closing brief – "that some alternative method of election would enhance Latino voting power." At trial, Plaintiffs presented several available remedies (district-based elections, cumulative voting, limited voting and ranked

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choice voting), each of which would enhance Latino voting power over the current at-large system.

(24AA10706.) These factual findings, which are entitled to deferential review, are well-founded in the evidence admitted at trial.

A. The Section 14028(E) Factors

Both Plaintiffs and the Attorney General recognize that the "factors laid out in section 14028, subdivision (e), such as the history of discrimination in the locality," may be significant to establishing that an at-large election system has resulted in the dilution of minority voting rights. (*Compare* OB-21, 42, 46 *and* Attorney General Amicus Brief, at p. 24.) The trial court in this case evaluated each of the factors listed in Section 14028(e), and detailed its findings, which the trial court found "further support" its determination that Defendant's at-large election system violates the CVRA. (24AA10700-10708.):

- ***History of Discrimination***. The trial court recited a troubling history of discrimination against Latinos in Santa Monica, including: (1) restrictive real estate covenants; (2) 70% percent of Santa Monica voters supporting a proposition to repeal the Rumsford Fair Housing act "and therefore again allow racial discrimination in housing"; (3) segregation in public facilities; and (4) discriminatory programs such as English-literacy requirements for voting and a "repatriation" program that sought to force Mexican-American legal

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immigrants and even citizens out of the country. (24AA10701-10702.)

- ***Voting Procedures that Exacerbate the Dilutive Effect of At-Large Voting.*** The trial court found that "the staggering of Defendants' city council elections enhances the dilutive effect of its at-large election system." (24AA10703.)
- ***Socioeconomic Effects of Past Discrimination***. The trial court found both a "severe achievement gap" in education and the disposable wealth disparity between white residents and Latino and African American residents in Santa Monica, due in part to the housing discrimination discussed above, was "far greater than the national disparity," and that disparity has disadvantaged Latino voters and candidates in Santa Monica's extraordinarily expensive city-wide elections. (24AA10703-10704; see also Sen. Bill 442 (Reg. Sess. 2021-2022) Sec. 1(a)(4), chaptered July 23, 2021 ["The Legislature finds and declares … At-large elections may operate to dilute minority votes, and campaigning in at-large elections is significantly more expensive than in [district-based] elections."].)
- ***Racial Appeals in Political Campaigns***. The trial court found that Santa Monica's elections have been plagued by both overt and subtle racial appeals—including caricature depictions of a Latino candidate as the leader of a Latino gang, and repeated questions of a Latina candidate regarding "whether she could represent all Santa Monica residents or just 'her people.'" (24AA10704-10705.)

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The record evidence supporting these factual findings is detailed at pages 27-29 of Plaintiffs' Opening Brief. On appeal Defendant does not even attempt to rebut these factual findings.[2]

B. Other Factors

1. Electoral History and Unresponsiveness

The Attorney General also advises that a court "can also look to additional facts about the specific locality and its electoral history," and Plaintiffs agree. In this case, the trial court summarized the electoral history of Santa Monica's city council:

[2] At various points, the Attorney General describes the "flexible" "highly fact-dependent" approach to finding vote dilution as being based on the "totality of the circumstances." It is worth noting that FVRA cases have used the phrase "totality of the circumstances" in a manner different than the ordinary sense in which the Attorney General uses that phrase in his brief. Under the FVRA, a plaintiff must, after establishing three preconditions, establish, "based on the totality of the circumstances," that the challenged electoral process is "not equally open to participation by members of [a protected class] in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice." (52 U.S.C. § 10301, subd. (b).) The *Gingles* court articulated a non-exhaustive list of factors relevant to the totality-of-the-circumstances determination. (See *Gingles*, supra, 478 U.S. at pp. 45–46.) The text of the CVRA incorporates some of those factors, but expressly eschews the requirement that those factors be shown to establish a violation of the CVRA; instead, the CVRA specifies those factors "are probative, *but not necessary* factors to establish a violation of Section 14027 and this section." (Elec. Code, § 14028(e) (emphasis added).) While Plaintiffs agree with the Attorney General that the "totality of the circumstances" factors listed in section 14028(e) may be important to determining vote dilution under the CVRA, making any of those factors necessary to finding vote dilution would be contrary to the statutory text.

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> In most elections where the choice is available, Latino voters strongly prefer a Latino candidate running for Defendant's city council, but, despite that support, the preferred Latino candidate loses. As a result, though Latino candidates are generally preferred by the Latino electorate in Santa Monica, only one Latino has been elected to the Santa Monica City Council in the 72 years of the current election system – 1 out of 71 to serve on the city council.

(24AA10680-10681.) The trial court found that lack of Latino representation on the city council, and the city councilmembers' recognition that they did not need the support of Latino voters to be elected, resulted in a general lack of responsiveness to the Latino community. (24AA10705-10706.) Courts have long recognized that unresponsiveness to the minority community is the inevitable result of dilutive at-large elections. (*Gingles* 478 U.S. at 48, n. 14 [dilutive at-large elections "allow[] those elected to ignore minority interests without fear of political consequences,'" quoting *Rogers v. Lodge* (1982) 458 U.S. 613, 623). In this case, the trial court found that environmental burdens (e.g. hazardous waste storage and a landfill now emitting methane) were disproportionately sited in the Latino-concentrated Pico Neighborhood, including "undesirable elements – e.g., the 10-freeway and train maintenance yard – [that] were placed in the Pico Neighborhood at the direction, or with the agreement, of Defendant or members of its city council." (24AA10705-10706.) The trial court further found that the City's commissions were "nearly devoid of

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Latino members,"—only one out of Defendant's 106 commissioners was Latina—which is significant both for city planning and as a barrier to political advancement (commission appointments often serve as a gateway to elective office), and is both indicative and perpetuating of Defendant's unresponsiveness to the Latino community. (24AA10706.)

2. Demographics and Geographic Concentration or Diffusion of the Protected Class

As Plaintiffs did in their Opening Brief (OB-48-50), the Attorney General advises a court "can also look to … the demographic makeup [and] geographic concentration or diffusion of the protected class" (Attorney General Amicus Brief, at. pp. 24-25). The trial court in this case considered the geographic concentration of the Latino community in the Pico Neighborhood district, among other things, in determining that the Latino community would have materially greater influence in a district-based election system. (24AA10734.)

The trial court noted the substantially greater Latino proportion of the Pico Neighborhood remedial district – where Latinos comprise "30% of the citizen voting age population" – than that in the city-wide electorate that votes in an at-large system. (24AA10734.) The trial court also looked to the experiences of other jurisdictions with similar minority proportions in a single-member district: "Even in districts where the minority group is one-third or less of a district's electorate, minority candidates previously

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unsuccessful in at-large elections have won district elections. (24AA10733-10734, citing Florence Adams, *Latinos and Local Representation: Changing Realities, Emerging Theories* (2000), at pp. 49–61.) Indeed, the evidence at trial demonstrated Latino candidates who had been unsuccessful in their cities' previous at-large elections prevailed in those cities' first district elections, even where the Latino proportion of the electorate was less than the 30% in this case. (RT6932:14-26; RT6935:24-6938:18 [describing Latino candidate's loss in at-large election and subsequent victory in district with 22% Latino voters]; RT6939:7-6942:20; RT6946:5-6947:21; RT7065:19-7067:19.)

3. Current and Historical Makeup of the Multimember Governing Body

The trial court also considered the "current and historical makeup of the relevant multimember governing body," as the Attorney General advises courts may do in assessing vote dilution. (See Attorney General Amicus Brief, at p. 25.) The trial court made this striking finding regarding the makeup of Defendant's city council since the current at-large system was adopted in 1946: "though Latino candidates are generally preferred by the Latino electorate in Santa Monica, only one Latino has been elected to the Santa Monica City Council in the 72 years of the current election system – 1 out of 71 to serve on the city council." (24AA10680-10681.)

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The Attorney General is correct to caution that "[i]n undertaking this analysis, a court should be careful to avoid overly focusing on a single snapshot in time. Instead, it should consider electoral results across time …" (Attorney General Amicus Brief, at p. 25.) The trial court did so here; it recognized that the then-current council included one Latino member – Tony Vazquez, but that "single snapshot in time" did not outweigh the overwhelming absence of Latino councilmembers over nearly all of the 72 years of the at-large system. (*Id.*; 24AA10680-10681.) The trial court also recognized that Mr. Vazquez – the only Latino ever elected under Defendant's at-large system – was not, in the most recent election, the Latino electorate's first-choice candidate. (24AA10688.) Rather, Latino voters' first choice in that election was Oscar de la Torre, but he lost – exactly the scenario the Attorney General identifies as demonstrating dilution of the "protected class's ability to exercise 'choice' or 'influence' in the electoral process" in spite of the election of a minority candidate. (Attorney General Amicus Brief, at p. 25; 24AA10688; see also *Collins v. v. City of Norfolk* (4th Cir. 1989) 883 F.2d 1232, 1238 [reversing the district court's identification of a candidate as black-preferred when that candidate was estimated to have received 15% less support from black voters than the black candidate who received the most black votes]; *Harper v. City of Chicago Heights* (N.D. Ill. 1993) 824 F.Supp. 786, 790-791 [refusing to label an incumbent black candidate as black-preferred where

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she received 11% less support from black voters than another black candidate who was the top choice of black voters].)[3]

4. The Impact of Alternative Electoral Systems on Election Outcomes.

Next, the Attorney General advises "a court can also consider the impact of alternative electoral systems on electoral outcomes, both districting and non-districting alternatives." (Attorney General Amicus Brief, at p. 25.) "[I]f the protected class would fare meaningfully better under multiple plausible alternative systems, this suggests that the at-large voting system has 'impaired' the protected class's electoral influence and power." (*Id.* at p. 26.) Here, the trial court engaged in a thorough evaluation of the likely impact of several potential remedial systems, and found that each of them would improve Latinos' electoral opportunities.

In addition to the findings summarized in Section IV.B.2 above, regarding Latinos' substantially greater proportion of the electorate in the remedial Pico Neighborhood district and the success of Latino candidates in

[3] The 2016 election in this case is strikingly similar to the circumstances addressed in *Harper*. In 2016, Mr. de la Torre received 10-36% greater support from Latino voters than did the incumbent Latino councilmember, Tony Vazquez. (RA74; accord RA203, RA209.) In that circumstance, there is a "presumption" that Mr. Vazquez – the second-choice of Latino voters – is not "minority-preferred," and Defendant has done nothing to rebut that presumption. (*Collins*, 883 F.2d at 1238.) Mr. de la Torre, the Latino-preferred candidate, lost. (24AA10688.)

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districts with similar proportions of Latino voters, in analyzing a potential district plan (RA46), the trial court looked to:

- Voting patterns in the Pico Neighborhood District, specifically that "Latino candidates preferred by Latino voters perform much better in the Pico Neighborhood district … than they do in other parts of the city – while they lose citywide, they often receive the most votes in the Pico Neighborhood district," indicating district elections "would [] result in the increased ability of [Latinos] to elect candidates of their choice or influence the outcomes of elections." (24AA10734; see also RT2318:7-2330:4; RA 29-30, 25AA11002-11004.); and
- The political and economic circumstances of Santa Monica, where campaigning in at-large elections is exceptionally expensive, Latino candidates and voters have much less wealth and disposable income for those campaigns, and the Latino community is well organized in the Pico Neighborhood in a manner that would "likely translate to equitable electoral strength" in a district system. (24AA10735; RT 6950:20-6952:6.)

Based on all of that substantial and unrebutted evidence, the trial court reasonably concluded that district elections would improve Latino voting power over the current at-large system, and that unlike the at-large system, district elections would afford the Latino community the ability to

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elect candidates of their choice, or at least the ability to significantly influence elections. (24AA10706-10707; 24AA10733-10735.)

Analyzing the non-district remedies of cumulative voting, limited voting and ranked-choice voting, the trial court heard unrebutted testimony that the effectiveness of those remedies should be judged by comparing the proportion of Latino eligible voters in the city to the "threshold-of-exclusion," as other courts have done. (See e.g., *U.S. v. Village of Port Chester* (S.D.N.Y. 2010) 704 F.Supp.2d 411, 450-451). The Latino share of eligible voters in Santa Monica exceeds the threshold of exclusion for a seven-seat race under each of those non-district remedies (corresponding to the seven seats on Defendant's city council), indicating that Latino voters in Santa Monica could elect their preferred candidates even with no help from non-Latinos. (RT2470:8-10; RT6955:7-6958:13; RT6967:25-6970:16; RT6975:28-6979:20; RT7051:27-7053:20.) Even where the minority proportion of eligible voters is slightly less than the threshold of exclusion, these non-district remedies have resulted in greater minority representation. (RT6963:1-6965:10; RT6971:14-6972:7; Engstrom, *Modified Multi-Seat Electoral Systems as Remedies for Minority Vote Dilution* (1992) 21 Stetson L.Rev. 743, 758-759.). Based on all the evidence, the trial court found "cumulative voting, limited voting and ranked choice voting . . . would improve Latino voting power in Santa Monica." (24AA10733.)

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The trial court also rejected the notion that any of the proposed remedial systems – district and non-district remedies alike – would harm the protected class. (24AA10706-10707; 24AA10733.) No court has ever found a move from at-large to district-based elections diluted minority votes. On the contrary, it is at-large or "multi-member district" elections that the courts have long recognized result in minority vote dilution and elected officials unresponsive to minority communities, and are thus the target of the CVRA. (*Gingles* 478 U.S. at p. 47 and p. 48, n. 14, citing *Rogers v. Lodge* (1982) 458 U.S. 613, 623; *White v. Regester* (1973) 412 U.S. 755, 769.) And, the threshold of exclusion for cumulative voting, limited voting and ranked-choice voting, in any multiple-seat election, will always be less than the 50% threshold of exclusion applicable to the sort of winner-take-all at-large elections employed by Defendant. While the Attorney General hypothesizes that a court could consider whether a district system, in the short-term, might reduce minority representation if multiple minority members of a governing board reside in the same district, the evidence at trial in this case established that only one councilmember resided in the Pico Neighborhood district in the entire 72 years of the at-large system, and that lone Pico Neighborhood councilmember was not Latino. (RT8030:11-14.)

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C. All of the Remedial Systems Considered By the Trial Court Can Be Implemented

Finally, the Attorney General advises that "[i]n looking at alternative systems, a court should be careful that the system is one that can, as a practical matter, be implemented" and that it is "legal to order a locality to adopt it under state law." (Attorney General Amicus Brief, at p. 26.) There is no question that the potential remedies considered by the trial court in this case are among those allowed by law.

District elections are, of course, expressly authorized by law. (See Elec. Code, § 14029 [Upon finding a violation, "the court shall implement appropriate remedies, including the imposition of district-based elections, that are tailored to remedy the violation."]; Gov't Code §§ 34870-34896.) The non-district remedies evaluated by the trial court – cumulative voting, limited voting and ranked-choice voting – are also legally permissible, as previously explained by Plaintiffs and Amicus FairVote. (Attorney General Amicus Brief, at p. 18; see also FairVote Amicus Brief, at pp. 15-22; OB-54.)[4]

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[4] The Attorney General references Elections Code section 19006, which requires "voting systems," i.e. the machinery used for collecting and tabulating ballots, be certified by the Secretary of State prior to use. (Attorney General Amicus Brief, at p. 19 fn. 2.) The Secretary of State certifies election machinery pursuant to Section 19006, not election methods.

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V. CONCLUSION

Though the Attorney General does not expressly urge this Court to rule in Plaintiffs' favor in this case, his interpretation of the CVRA is consistent with that of Plaintiffs, and application of the trial court's factual findings to that interpretation, inescapably leads to that result.

DATED: August 11, 2021

Respectfully submitted,

SHENKMAN & HUGHES

/s/ Kevin Shenkman

Kevin Shenkman

Attorneys for Plaintiffs-Respondents
Pico Neighborhood Association and
Maria Loya

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CERTIFICATE OF WORD COUNT

(Cal. Rules of Court, rules 8.2024(c)(1).)

I, the undersigned appellate counsel, certify that this brief consists of 4,187 words exclusive of those portions of the brief specified in California Rules of Court, rule 8.204(c)(3), relying on the word count of the Microsoft Word 2016 computer program used to prepare the brief.

Dated: August 11, 2021

Respectfully submitted,

SHENKMAN & HUGHES

/s/ Kevin Shenkman
Kevin Shenkman

Attorneys for Petitioners, Pico Neighborhood Association, *et al.* (Respondents in the Court of Appeal)

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PROOF OF SERVICE

I am a citizen of the United States, am over the age of 18 years, and not a party to the within entitled action. My business address is 155 Grand Avenue, Suite 900, Oakland, CA 94612. I declare that on the date hereof I served the following documents:

PLAINTIFFS AND RESPONDENTS PICO NEIGHBORHOOD ASSOCIATION AND MARIA LOYA'S RESPONSE TO THE AMICUS CURIAE BRIEF OF ATTORNEY GENERAL ROB BONTA

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Appellant's Counsel

CITY OF SANTA MONICA
GEORGE CARDONA (135439)
Interim City Attorney
George.Cardona@smgov.net
1685 Main Street, Room 310
Santa Monica, CA 90401
Telephone: (310) 458-8336

GIBSON, DUNN & CRUTCHER LLP
THEODORE J. BOUTROUS JR. (132099)
TBoutrous@gibsondunn.com
MARCELLUS A. MCRAE (140308)
MMcrae@gibsondunn.com
KAHN A. SCOLNICK (228686)
KScolnick@gibsondunn.com
TIAUNIA N. HENRY (254323)
THenry@gibsondunn.com
DANIEL R. ADLER (306924)
DAdler@gibsondunn.com
333 South Grand Avenue
Los Angeles, CA 90071
Telephone: (213) 229-7000
Facsimile: (213) 229-7520

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Amici's Counsel

KRISTIN A. LISKA (SBN 315994)
Deputy Attorney General
Kristin.Liska@doj.ca.gov
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3916
Fax: (415) 703-5480

☒ BY U.S. MAIL: By placing a true copy of the document(s) listed above for collection and mailing following the firm's ordinary business practice in a sealed envelope with postage thereon fully prepaid for deposit in the United States mail at Oakland, California addressed as set forth below.

TRIAL COURT
HON. YVETTE M. PALAZUELOS
Judge Presiding
Los Angeles County Superior Court
312 North Spring Street
Los Angeles, CA 90012
Telephone: (213) 310-7009

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on this 11th day of August 2021, at Oakland, California.

Stuart Kirkpatrick

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