1   CITY OF SANTA MONICA   Gov. Code, § 6103

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17   **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

18   **FOR THE COUNTY OF LOS ANGELES**

19 PICO NEIGHBORHOOD ASSOCIATION; and   CASE NO. BC616804
    MARIA LOYA,
20   **DEFENDANT CITY OF SANTA**
                                              MONICA'S OBJECTIONS TO
            Plaintiffs,   **PLAINTIFFS' PROPOSED JUDGMENT**
21
      v.
22   Complaint Filed: April 12, 2016
    CITY OF SANTA MONICA,   Trial Date: August 1, 2018
23
            Defendant.   *Assigned to Judge Yvette Palazuelos*
24   *Dep't 28*

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Gibson, Dunn &   DEFENDANT CITY OF SANTA MONICA'S OBJECTIONS TO
Crutcher LLP   PLAINTIFFS' PROPOSED JUDGMENT

Defendant City of Santa Monica submits the following objections to plaintiffs' proposed judgment under Code of Civil Procedure section 634 and rule 3.1590(g) of the California Rules of Court.

The City submits these objections to avoid any claim of waiver on appeal and to address any ambiguity or factual error in the proposed judgment.

Objections to ¶ 1 of the proposed judgment. The Pico Neighborhood Association lacks standing to pursue this action. In the interest of efficiency and avoiding needless duplication, the City here incorporates by reference the objections made in response to the following portion of plaintiffs' proposed statement of decision (PSOD): 5:21–6:6.

Objections to ¶ 3 of the proposed judgment. The City's Council elections are not characterized by legally significant racially polarized voting, as candidates appropriately identified as Latino-preferred do not usually lose on account of white bloc voting. Nor do the 14028(e) factors support plaintiffs' theory of the case. Additionally, plaintiffs cannot prevail on their CVRA claim because they failed to present any evidence of vote dilution—that is, evidence that an alternative electoral system would enhance Latino voting strength. In the interest of efficiency and avoiding needless duplication, the City here incorporates by reference any relevant objections made in response to plaintiffs' proposed statement of decision, including its responses to the following portions of that statement: 2:7–3:11, 3:12-18, 4:19-22, 7:22–8:1 & fn. 3, 8:1-4, 8:6-11 & fn. 4, 8:12–9:17 & fn. 5, 10:1-14, 11:1, 11:2-8, 11:16, 11:17-18, 12:3-5 & fn. 10, 12:16–13:9, 16:13–17:4, 17:4-21, 17:22-25, 18:14-17, 18:17–19:2, 19:2-7, 19:10-11, 19:12-16, 19:20–20:4, 20:6-15, 20:17–21:6, 21:9-10, and 21:10-22.

Objections to ¶ 4 of the proposed judgment. Plaintiffs failed to prove an injury in the form of vote dilution caused by the City's at-large electoral system. No alternative electoral system would enhance Latino voting strength. In the interest of efficiency and avoiding needless duplication, the City here incorporates by reference any relevant objections made in response to plaintiffs' proposed statement of decision, including its responses to the following portions of that statement: 2:7–3:11, 3:12-18, 4:2-12, 4:16-17, 6:28–7:5, 21:9-10, 21:10-22, 23:17-23, 24:4-19, and 37:6-10.

Objections to ¶ 5 of the proposed judgment. There is no evidence that the Freeholders in 1946

Gibson, Dunn &
Crutcher LLP

or the Council in 1992 acted with discriminatory intent. Nor is there evidence that the adoption or maintenance has had a discriminatory impact, as plaintiffs have failed to show that at any point from 1946 to 1992 it was possible to draw up an alternative electoral scheme that would enhance minority voting power. In the interest of efficiency and avoiding needless duplication, the City here incorporates by reference any relevant objections made in response to plaintiffs' proposed statement of decision, including its responses to the following portions of that statement: 26:26–27:5, 27:5-7, 27:7-11, 27:14-17, 27 fn. 15, 27:17-21, 27:22-23, 28:1-6, 28:6-9, 28:10-11, 28:11-12, 28:12-14, 28:14-16, 28:16-18, 28:18-21, 28:21-25, 29:26–29:2, 29:3-7, 29:8-11, 29:16-18, 29:18-21, 29:23-25, 29:26-27, 29:27–30:2, 30:4-5, 30:5-13, 30:13-20 & fn. 16, 30:20–31:6, 31:7, 31:8-10, 31:11-12, 31:12-17, 31:17-21, 31:22-24, 31:24-26, 32:4-8, 32:9-14, and 32:14-17.

Objections to ¶ 6 of the proposed judgment. There is no evidence that any alternative electoral system would enhance Latino voting power in Santa Monica, and there is no history of racially polar-ized voting, much less any ill "effects" resulting from it. In the interest of efficiency and avoiding needless duplication, the City here incorporates by reference any relevant objections made in response to plaintiffs' proposed statement of decision, including its responses to the following portions of that statement: 2:7–3:11, 3:12-18, 4:2-12, 4:16-17, 4:19-22, 6:28–7:5, 7:22–8:1 & fn. 3, 8:1-4, 8:6-11 & fn. 4, 8:12–9:17 & fn. 5, 10:1-14, 11:1, 11:16, 11:17-18, 12:3-5 & fn. 10, 12:16–13:9, 14:8–15:3, 16:13–17:4, 17:4-21, 17:22-25, 19:12-13, 19:20–20:4, 20:17–21:6, 21:9-10, and 21:10-22.

Objections to ¶ 7 of the proposed judgment. Race *was* the predominant consideration in draw-ing plaintiffs' districting plan insofar as (1) it motivated its drawing in the first place, and (2) the plan was drawn in a race-conscious way to maximize the Latino share of the citizen-voting-age population in a purportedly remedial district, but nevertheless does not contain a district that would enhance Latino voting strength inside the district (and would weaken it outside of the district). In the interest of effi-ciency and avoiding needless duplication, the City here incorporates by reference any relevant objec-tions made in response to plaintiffs' proposed statement of decision, including its responses to the following portions of that statement: 21:25-27, 22:2-9, 22:10–23:3, and 23:5-17.

Objections to ¶ 8 of the proposed judgment. Because the City's electoral system does not vio-

DEFENDANT CITY OF SANTA MONICA'S OBJECTIONS TO
PLAINTIFFS' PROPOSED JUDGMENT

late either the California Voting Rights Act or the Equal Protection Clause of the California Constitution, the current councilmembers were not "elected through unlawful elections." In the interest of efficiency and avoiding needless duplication, the City here incorporates by reference the objections made in response to objections 3, 4, 5, and 6.

Judgment. As noted above, there is no basis for a judgment against the City. The City incorporates by reference all relevant objections stated above and/or in its objections to the PSOD. The following objections pertain to the form and accuracy of the judgment:

5:4-7. The Court cannot order that all elections ever to be held in the City must follow this judgment, including its districting plan, because that plan must by law periodically change following mandatory redistricting efforts.

5:15–9:3. There are a great many errors in plaintiffs' description of the boundaries of the districts. The City therefore attaches for the Court's convenience as Appendix A a track-changes version, correcting these errors and making further clarifications.

9:5-8. The Court should give the City opportunity to follow section 10010 of the Elections Code. Also, the City cannot hold an election on July 2, 2019 for legal and practical reasons. In the interest of efficiency and avoiding needless duplication, the City here incorporates by reference the objections made in response to the following portions of plaintiffs' proposed statement of decision: 32:25–33:9, 34:22-25, 35:26–36:2, 36:11, 36:11-19, 37:14–38:1, 37 fn. 17, 38 fn. 18, 38:1-5, and 39:8-9.

9:9-12. Any order prohibiting all current councilmembers from serving past a certain date would be prohibitory in name, but mandatory in effect, and therefore stayed by the taking of an appeal. If all councilmembers were to leave the Council, the City would be without a governing body. And because there can be no question that an order to hold a special election under a districted scheme would be stayed by the taking of an appeal, an order prohibiting councilmembers from serving past a certain date would also need to be stayed, lest the City be left in the intolerable position that it have no elected officials to make important decisions. To avoid any doubt or ambiguity, the Court should make clear that any such order would be stayed upon the taking of appeal.

9:13-15. There is no Settlement Agreement. Plaintiffs' counsel likely copied this language

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1   from one of their other cases.

2   *9:16-21*. Should the City pursue and prevail on an appeal, no fees will be owed. Further, the

3   City reserves its rights to challenge the accuracy and reasonableness of any motion for fees and/or

4   memorandum of costs.

5   Finally, the City submits for the Court's consideration an alternative proposed judgment that

6   avoids some of the errors and ambiguities presented by plaintiffs' proposal, and addresses which as-

7   pects of the Court's judgment would be stayed during the pendency of any appeal. This proposal

8   follows from the assumption that the Court will not depart from any of its tentative rulings. (Of course,

9   the City does not believe that any judgment against it is warranted, but if the Court intends to enter a

10   judgment on the basis of its current tentative rulings, it should enter the one that follows.)

11

12   **THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defend-

13   ant's plurality at-large method of election for its City Council violates the California Voting Rights

14   Act, Sections 14027 and 14028 of the California Elections Code;

15   **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Defendant's plurality

16   at-large method of election for its City Council violates the Equal Protection Clause of the California

17   Constitution;

18   **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that all further elections,

19   from the date of entry of this judgment, for any seats on the Santa Monica City Council, shall be district-

20   based elections, as defined by the California Voting Rights Act, Section 14026(b) of the California

21   Elections Code;

22   **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Defendant shall hold a

23   district-based special election on August 13, 2019, for each of the seven seats on the Santa Monica City

24   Council, and the results of said special election shall be tabulated and certified in compliance with

25   applicable sections of the Elections Code;

26   **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Defendant shall conduct

27   the district-based special election on August 13, 2019, using districts in accordance with the map at-

28   tached hereto as Exhibit A. The metes and bounds of each district, as depicted in the map attached as

Exhibit A, are described using TIGER line segments (used to define census block geography) as follows:

District #1

The region bounded and described as follows:

Beginning at the point of intersection of Alley between Princeton and Harvard and Broadway, and proceeding southerly along Alley between Princeton and Harvard to Colorado Ave, and proceeding easterly along Colorado Ave to Stewart St, and proceeding southerly along Stewart St to Olympic Blvd, and proceeding easterly along Olympic Blvd to the eastern City Boundary, and proceeding southerly along the eastern City Boundary to Pico Blvd, and proceeding westerly along Pico Blvd to 22nd St, and proceeding southerly along 22nd St to Pico Place South, and proceeding westerly along Pico Place South to 20th St, and proceeding northerly along 20th St to Pico Blvd, and proceeding westerly along Pico Blvd to Lincoln Blvd, and proceeding northerly along Lincoln Blvd to Broadway, and proceeding easterly along Broadway to 9th Court, and proceeding northerly along 9th Court to Santa Monica Blvd, and proceeding easterly along Santa Monica Blvd to 16th St, and proceeding southerly along 16th St to Broadway, and proceeding easterly along Broadway to 17th Court, and proceeding southerly along 17th Court to Colorado Ave, and proceeding easterly along Colorado Ave to 19th Court, and proceeding northerly along 19th Court to Broadway, and proceeding easterly along Broadway to the point of beginning.

District #2

The region bounded and described as follows:

Beginning at the point of intersection of eastern City Boundary and Pico Blvd, and proceeding southerly along eastern City Boundary to the southern City Boundary, and proceeding westerly along the southern City Boundary to 11th St, and proceeding northerly along 11th St to Marine Place North, and proceeding westerly along Marine Place North to Alley east of Lincoln Blvd, and proceeding northerly along Alley east of Lincoln Blvd to Pier Ave, and proceeding westerly along Pier Ave to Lincoln Blvd, and proceeding northerly along Lincoln Blvd to Hill Place North, and proceeding easterly along Hill Place North to 11th St, and proceeding northerly along 11th St to Pico Blvd, and proceeding easterly along Pico Blvd to 20th St, and proceeding southerly along 20th St to Pico Place South, and proceeding

1   easterly along Pico Place South to 22nd St, and proceeding northerly along 22nd St to Pico Blvd, and

2   proceeding easterly along Pico Blvd to the point of beginning.

3   District #3

4   The region bounded and described as follows:

5   Beginning at the northernmost point of City Boundary, and proceeding southeasterly along City Bound-

6   ary to Montana Ave, and proceeding westerly along Montana Ave to 20th St, and proceeding southerly

7   along 20th St to Idaho Ave, and proceeding westerly along Idaho Ave to 9th St, and proceeding nor-

8   therly along 9th St to Montana Ave, and proceeding westerly along Montana Ave to Montana Ave

9   Extension (the line reflecting an extension of Montana Avenue to the western City Boundary), and

10   proceeding westerly along Montana Ave Extension to the western City Boundary, and proceeding nor-

11   therly along the western City Boundary to the northern City Boundary, and proceeding easterly along

12   the northern City Boundary to the point of beginning.

13   District #4

14   The region bounded and described as follows:

15   Beginning at the City Boundary at the intersection of Montana Ave and 26th St, and proceeding easterly

16   along the northern City Boundary to the eastern City Boundary, and proceeding southerly along the

17   eastern City Boundary to Olympic Blvd, and proceeding westerly along Olympic Blvd to Stewart St,

18   and proceeding northerly along Stewart St to Colorado Ave, and proceeding westerly along Colorado

19   Ave to Alley between Princeton and Harvard, and proceeding northerly along Alley between Princeton

20   and Harvard to Broadway, and proceeding westerly along Broadway to Princeton St, and proceeding

21   northerly along Princeton St to Santa Monica Blvd, and proceeding westerly along Santa Monica Blvd

22   to Chelsea Ave, and proceeding northerly along Chelsea Ave to Wilshire Blvd, and proceeding west-

23   erly along Wilshire Blvd to 17th St, and proceeding northerly along 17th St to Idaho Ave, and proceed-

24   ing easterly along Idaho Ave to 20th St, and proceeding northerly along 20th St to Montana Ave, and

25   proceeding easterly along Montana Ave to the point of beginning.

26   District #5

27   The region bounded and described as follows:

28

DEFENDANT CITY OF SANTA MONICA'S OBJECTIONS TO
PLAINTIFFS' PROPOSED JUDGMENT

1	Beginning at the point of intersection of Chelsea Ave and Wilshire Blvd, and proceeding southerly
2	along Chelsea Ave to Santa Monica Blvd, and proceeding easterly along Santa Monica Blvd to Prince-
3	ton St, and proceeding southerly along Princeton St to Broadway, and proceeding westerly along
4	Broadway to 19th Court, and proceeding southerly along 19th Court to Colorado Ave, and proceeding
5	westerly along Colorado Ave to 17th Court, and proceeding northerly along 17th Court to Broadway,
6	and proceeding westerly along Broadway to 16th St, and proceeding northerly along 16th St to Santa
7	Monica Blvd, and proceeding westerly along Santa Monica Blvd to 9th Court, and proceeding south-
8	erly along 9th Court to Broadway, and proceeding westerly along Broadway to 7th St, and proceeding
9	northerly along 7th St to Wilshire Blvd, and proceeding easterly along Wilshire Blvd to Lincoln Blvd,
10	and proceeding northerly along Lincoln Blvd to Montana Ave, and proceeding easterly along Montana
11	Ave to 9th St, and proceeding southerly along 9th St to Idaho Ave, and proceeding easterly along Idaho
12	Ave to 17th St, and proceeding southerly along 17th St to Wilshire Blvd, and proceeding easterly along
13	Wilshire Blvd to the point of beginning.
14	District #6
15	The region bounded and described as follows:
16	Beginning at the point of intersection of Lincoln Blvd and Montana Ave, and proceeding southerly
17	along Lincoln Blvd to Wilshire Blvd, and proceeding westerly along Wilshire Blvd to 7th St, and pro-
18	ceeding southerly along 7th St to Broadway, and proceeding easterly along Broadway to Lincoln Blvd,
19	and proceeding southerly along Lincoln Blvd to Bay St, and proceeding westerly along Bay St to 6th
20	St, and proceeding northerly along 6th St to Bay St, and proceeding westerly along Bay St to Ocean
21	Front Walk, and proceeding northerly along Ocean Front Walk to Pico Blvd Extension (the line re-
22	flecting an extension of Pico Blvd to the western City Boundary), and proceeding westerly along Pico
23	Blvd Extension to the western City Boundary, and proceeding northerly along the western City Bound-
24	ary to Montana Ave Extension (the line reflecting an extension of Montana Avenue to the western City
25	Boundary), and proceeding easterly along Montana Ave Extension to Montana Ave, and proceeding
26	easterly along Montana Ave to the point of beginning.
27	District #7
28	The region bounded and described as follows:

DEFENDANT CITY OF SANTA MONICA'S OBJECTIONS TO
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Beginning at the point of intersection of 11th St and Pico Blvd, and proceeding southerly along 11th St to Hill Place North, and proceeding westerly along Hill Place North to Lincoln Blvd, and proceeding southerly along Lincoln Blvd to Pier Ave, and proceeding easterly along Pier Ave to Alley east of Lincoln Blvd, and proceeding southerly along Alley east of Lincoln Blvd to Marine Place North, and proceeding easterly along Marine Place North to 11th St, and proceeding southerly along 11th St to the southern City Boundary, and proceeding westerly along the southern City Boundary to the western City Boundary, and proceeding northerly along the western City Boundary to Pico Blvd Extension (the line reflecting an extension of Pico Boulevard to the western City Boundary), and proceeding easterly along Pico Blvd Extension to Ocean Front Walk, and proceeding southerly along Ocean Front Walk to Bay St, and proceeding easterly along Bay St to 6th Street, and proceeding southerly along 6th St to Bay St, and proceeding easterly along Bay St to Lincoln Blvd, and proceeding northerly along Lincoln Blvd to Pico Blvd, and proceeding easterly along Pico Blvd to the point of beginning.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that prior to the August 13, 2019 election, Defendant shall specify the sequencing of subsequent district-based elections for Santa Monica City Council seats;

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that subsequent district-based elections for Santa Monica City Council seats shall be conducted using districts established in accordance with California Elections Code 10010, which districts shall, to the extent possible, include at least one district with boundaries as close as possible to those of District 1 in the map attached as Exhibit A;

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is permanently enjoined from imposing, applying, holding, tabulating, and/or certifying any further at-large elections, and/or the results thereof, for any positions on the Santa Monica City Council;

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, if Defendant files an appeal from this Judgment, all of the injunctive relief ordered above shall be stayed during the pendency of the appeal;

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IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court retains jurisdiction to interpret and enforce this Judgment and to adjudicate any disputes regarding implementation or interpretation of this Judgment;

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, pursuant to Elections Code Section 14030 and Code of Civil Procedure Section 1021.5, Plaintiffs are the prevailing and successful parties and are entitled to recover reasonable attorneys' fees and costs, including expert witness fees and expenses, in an amount to be determined by noticed motion for an award of attorneys' fees and a memorandum of costs for an award of costs, including expert witness fees and expenses.

DATED: January 18, 2019

Respectfully submitted,
GIBSON, DUNN & CRUTCHER LLP

By: _____
Theodore J. Boutrous, Jr.
Attorneys for Defendant
City of Santa Monica

DEFENDANT CITY OF SANTA MONICA'S OBJECTIONS TO
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APPENDIX A

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

PICO NEIGHBORHOOD ASSOCIATION and MARIA LOYA, Plaintiff, v. CITY OF SANTA MONICA, and DOES 1 through 100, inclusive, Defendant.	CASE NO. BC616804 **[PROPOSED] JUDGMENT** Dept: 28 [Assigned to the Honorable Yvette Palazuelos]

[PROPOSED] JUDGMENT

1   This cause came on for trial pursuant to notice and order of the Court on August 1, 2018, in

2   Department 28 of the Los Angeles Superior Court, Hon. Yvette M. Palazuelos, judge presiding. The

3   trial concluded on September 13, 2013. Plaintiffs, Maria Loya and Pico Neighborhood Association,

4   appeared through their attorneys of record: Kevin I. Shenkman and Andrea Alarcon of Shenkman &

5   Hughes PC; R. Rex Parris and Ellery Gordon of the Parris Law Firm; Milton Grimes and Robert

6   Rubin. Defendant, City of Santa Monica, California, appeared through its attorneys of record:

7   Marcellus McRae, Kahn Scolnick, Tiaunia Henry, Daniel Adler and Michelle Maryott of Gibson

8   Dunn & Crutcher LLP and George Cardona of the Santa Monica City Attorney's Office.

9   At the conclusion of the trial on September 13, 2018, the parties submitted briefing in lieu of

10   closing statements. On November 8, 2018, this Court issued its Tentative Decision, finding in favor

11   of Plaintiffs on both of their causes of action: 1) violation of the California Voting Rights Act of

12   2001 ("CVRA"); and 2) violation of the Equal Protection Clause of the California Constitution.

13   Defendant requested a Statement of Decision on November 15, 2018. On November 8, 2018, this

14   Court also ordered the parties to address proposed remedies through briefing and at a hearing on

15   December 7, 2018. At that hearing, in addition to the counsel who appeared at the August 1 —

16   September 13, 2018 trial, Theodore Boutrous of Gibson Dunn & Crucher LLP appeared on behalf of

17   Defendant. On December 12, 2018, this Court issued a First Amended Tentative Decision,

18   prohibiting Defendant from employing any further at-large elections for any seats on its city council

19   and ordered that all future elections for any seats on Defendant's city council shall be district-based

20   elections (as defined by the CVRA) in accordance with the map attached thereto. On December 12,

21   2018 this Court also directed Plaintiffs to prepare a proposed judgment for this Court. On January 2,

22   2019, this Court provided further clarification of its First Amended Tentative Decision, specifically

23   regarding the selection of appropriate remedies.

24   After hearing and considering all of the testimony, evidence and arguments presented, and

25   having issued its Statement of Decision, the Court now enters its Judgment in the above-captioned

26   case.

27   / / /

28   / / /

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[PROPOSED] JUDGMENT

The Court finds as follows:

1.   Plaintiff Maria Loya is registered to vote, and resides within the City of Santa Monica, California. She is a member of a "protected class" as that term is defined in California Elections Code Section 14026. Plaintiff Pico Neighborhood Association is an organization with members who, like Maria Loya, reside in Santa Monica, are registered to vote, and are members of a protected class. Plaintiff Pico Neighborhood Association's organizational mission is germane to the subject of this case — namely, advocating for the interests of Pico Neighborhood residents, including to the city government, where Latinos are concentrated in Santa Monica.

2.   Defendant is a political subdivision as that term is defined in California Elections Code Section 14026. The governing body of Defendant is the City Council of Santa Monica, California. The City Council of Santa Monica, California is elected by an "at large method of election" as that term is defined in California Elections Code Section 14026.

3.   Plaintiffs have demonstrated that elections in Santa Monica, namely elections for Defendant's city council involving at least one Latino candidate, are consistently and significantly characterized by "racially-polarized voting" as that term is defined in California Elections Code Section 14026.

- Analyzing elections over the past twenty-four years, a consistent pattern of racially-polarized voting emerges. 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.

- Though not necessary to show a CVRA violation, Plaintiffs have also demonstrated other factors supporting the finding of a violation of the CVRA, pursuant to Elections Code section 14028(e), including a history of discrimination in Santa Monica; the use of electoral devices or other voting practices or procedures that may enhance the dilutive effects of at-large elections; that Latinos in Santa Monica bear the effects of past

1 | discrimination in areas such as education, employment, and health, which hinder their
2 | ability to participate effectively in the political process; the use of overt or subtle racial
3 | appeals in political campaigns; and a lack of responsiveness by the Santa Monica city
4 | government to the Latino community concentrated in the Pico Neighborhood.

5 | 4. In the face of racially polarized voting patterns of the Santa Monica electorate,
6 | Defendant has imposed an at-large method of election in a manner that impairs the ability of Latinos
7 | to elect candidates of their choice or influence the outcome of elections, as a result of the dilution or
8 | the abridgment of the rights of Latino voters.

9 | 5. The City of Santa Monica amended its charter in 1946, adopting its current council-
10 | manager form government and current at-large election system. The precise terms of that charter
11 | amendment, and specifically the form of elections to be employed, were decided upon by a Board of
12 | Freeholders. In 1992, Defendant's city council rejected the recommendation of the Charter Review
13 | Committee to scrap the at-large election system. In each instance, the adoption and/or maintenance
14 | of at-large elections was done with a discriminatory purpose, and has had a discriminatory impact.

15 | 6. The CVRA does not require the imposition of district-based elections. The Court
16 | considered cumulative voting, limited voting and ranked choice voting as potential remedies to
17 | Defendant's violation of the CVRA. Plaintiffs presented these at-large alternatives for the Court's
18 | consideration, but both Plaintiffs and Defendant agreed that the most appropriate remedy would
19 | indeed be a district-based remedy. While the Court finds that each of these alternatives would
20 | improve Latino voting power in Santa Monica, the Court finds that the imposition of district-based
21 | elections is an appropriate remedy to address the effects of the established history of racially-
22 | polarized voting.

23 | 7. During the trial, Plaintiffs' expert presented a district plan. That district plan included
24 | a district principally composed of the Pico Neighborhood, where Santa Monica's Latino community
25 | is concentrated. Districts drawn to remedy a violation of the CVRA should be nearly equal in
26 | population, and should not be drawn in a manner that may violate the federal Voting Rights Act.
27 | Other factors may also be considered -- the topography, geography and communities of interest of the
28 | city should be respected, and the districts should be cohesive, contiguous and compact. *See* Elections

3

Code Section 21620. Districts drawn to remedy a violation of the CVRA should not be drawn to

protect current incumbents. Incumbency protection is generally disfavored in California. *(See*

California Constitution Art. XXI Section 2(e)). The place of residence of incumbents or political

candidates is not one of the considerations listed in Section 21620 of the Elections Code. Race

should not be a predominant consideration in drawing districts unless necessary to remedy past

violation of voting rights. The district plan presented by Plaintiffs' expert properly takes into

consideration the factors of topography, geography, cohesiveness, contiguity and compactness of

territory, and community of interest of the districts, and race was not a predominant consideration.

8.   The current members of the Santa Monica City Council were elected through unlawful

elections. The residents of the City of Santa Monica deserve to have a lawfully elected city council

as soon as is practical. The residents of the City of Santa Monica are entitled to have a council that

truly represents all members of the community. Latino residents of Santa Monica, like all other

residents of Santa Monica, deserve to have their voices heard in the operation of their city. This can

only be accomplished if all members of the city council are lawfully elected. To permit some

members of the council to remain who obtained their office through an unlawful election may be a

necessary and appropriate interim remedy but will not cure the clear violation of the CVRA and

Equal Protection Clause.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that

Defendant has violated the California Voting Rights Act (California Elections Code Sections 14025

—14032).

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant's plurality

at-large elections for its City Council violate Elections Code Sections 14027 and 14028.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant has violated

the Equal Protection Clause of the California Constitution (California Constitution, Article I Section

7).

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant's plurality

at-large elections for its City Council violate the Equal Protection Clause of the California

Constitution.

1   **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendant is

2 permanently enjoined from imposing, applying, holding, tabulating, and/or certifying any further at-

3 large elections, and/or the results thereof, for any positions on its City Council.

4   **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendant is

5 permanently enjoined from imposing, applying, holding, tabulating, and/or certifying any elections,

6 and/or the results thereof, for any positions on its City Council, except an election in conformity with

7 this judgment.

8   **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that all further elections,

9 from the date of entry of this judgment for any seats on the Santa Monica City Council, shall be

10 district-based elections, as defined by the California Voting Rights Act, in accordance with the map

11 attached hereto as Exhibit A. The metes and bounds of each district, as depicted in the map attached

12 as Exhibit A, are described using TIGER line segments (used to define census block geography) as

13 follows:

14 District #1

15   The region bounded and described as follows:

16 Beginning at the point of intersection of Alley between Princeton and Harvard and Broadway, and

17 proceeding southerly along Alley between Princeton and Harvard to Colorado Ave, and proceeding

18 ~~northerly~~<u>easterly</u> along Colorado Ave to Stewart St, and proceeding southerly along Stewart St to

19 Olympic Blvd, and proceeding easterly along Olympic Blvd to <u>the eastern</u> City Boundary, and

20 proceeding ~~easterly~~<u>southerly</u> along <u>the eastern</u> City Boundary to Pico Blvd, and proceeding westerly

21 along Pico Blvd to 22nd St, and proceeding southerly along 22nd St to ~~Alley south of~~ Pico ~~Blvd~~<u>Place</u>

22 <u>South</u>, and proceeding westerly along ~~Alley south of~~ Pico ~~Blvd~~<u>Place South</u> to 20th St, and proceeding

23 northerly along 20th St to Pico Blvd, and proceeding westerly along Pico Blvd to Lincoln Blvd, and

24 proceeding northerly along Lincoln Blvd to Broadway, and proceeding easterly along Broadway to

25 ~~Alley between~~ 9th ~~and 10th St~~<u>Court</u>, and proceeding northerly along ~~Alley between~~ 9th ~~and 10th~~

26 ~~St~~<u>Court</u> to Santa Monica Blvd, and proceeding easterly along Santa Monica Blvd to 16th St, and

27 proceeding southerly along 16th St to Broadway, and proceeding easterly along Broadway to ~~Alley~~

28 ~~between~~ 17th ~~and 18th St~~<u>Court</u>, and proceeding southerly along ~~Alley between~~ 17th ~~and 18th St~~<u>Court</u>

1 to Colorado Ave, and proceeding ~~northerly~~easterly along Colorado Ave to ~~Alley between~~ 19th ~~and~~

2 ~~20th St~~Court, and proceeding northerly along ~~Alley between~~ 19th ~~and 20th St~~Court to Broadway, and

3 proceeding ~~northerly~~easterly along Broadway to the point of beginning.

4 District #2

5   The region bounded and described as follows:

6 Beginning at the point of intersection of eastern City Boundary and Pico Blvd, and proceeding

7 southerly along eastern City Boundary to ~~NE boundary of Census Block 060377022021010~~the

8 southern City Boundary, and proceeding westerly along ~~NE boundary of Census Block~~

9 ~~060377022021010~~the southern City Boundary to 11th St, and proceeding northerly along 11th St to

10 Marine ~~Pl N~~Place North, and proceeding westerly along Marine ~~Pl N~~Place North to Alley east of

11 Lincoln Blvd, and proceeding ~~westerly~~northerly along Alley east of Lincoln Blvd to Pier Ave, and

12 proceeding westerly along Pier Ave to Lincoln Blvd, and proceeding ~~westerly~~northerly along Lincoln

13 Blvd to Hill ~~Pl N~~Place North, and proceeding easterly along Hill ~~Pl N~~Place North to 11th St, and

14 proceeding northerly along 11th St to Pico Blvd, and proceeding easterly along Pico Blvd to 20th St,

15 and proceeding southerly along 20th St to ~~Alley south of~~ Pico ~~Blvd~~Place South, and proceeding

16 easterly along ~~Alley south of~~ Pico ~~Blvd~~Place South to 22nd St, and proceeding northerly along 22nd

17 St to Pico Blvd, and proceeding easterly along Pico Blvd to the point of beginning.

18 District #3

19   The region bounded and described as follows:

20 Beginning at the ~~northmost~~northernmost point of City Boundary, and proceeding southeasterly along

21 City Boundary to Montana Ave, and proceeding westerly along Montana Ave to 20th St, and

22 proceeding southerly along 20th St to Idaho Ave, and proceeding westerly along Idaho Ave to 9th St,

23 and proceeding northerly along 9th St to Montana Ave, and proceeding westerly along Montana Ave

24 to Montana Ave Extension~~,~~ (the line reflecting an extension of Montana Avenue to the western City

25 Boundary), and proceeding ~~southerly~~westerly along Montana Ave Extension to the western City

26 Boundary, and proceeding northerly along the western City Boundary to the northern City Boundary,

27 and proceeding easterly along the northern City Boundary to the point of beginning.

28 / / /

6

/ / /

District #4

The region bounded and described as follows:

Beginning at the City Boundary at the intersection of Montana Ave and 26th St, and proceeding easterly along ~~the northern City Boundary to the eastern City Boundary, and proceeding southerly along the eastern~~ City Boundary to Olympic Blvd, and proceeding westerly along Olympic Blvd to Stewart St, and proceeding ~~westerly~~northerly along Stewart St to Colorado Ave, and proceeding westerly along Colorado Ave to Alley between Princeton and Harvard, and proceeding northerly along Alley between Princeton and Harvard to Broadway, and proceeding westerly along Broadway to Princeton St, and proceeding northerly along Princeton St to Santa Monica Blvd, and proceeding westerly along Santa Monica Blvd to Chelsea Ave, and proceeding northerly along Chelsea Ave to Wilshire Blvd, and proceeding westerly along Wilshire Blvd to 17th St, and proceeding northerly along 17th St to Idaho Ave, and proceeding easterly along Idaho Ave to 20th St, and proceeding northerly along 20th St to Montana Ave, and proceeding easterly along Montana Ave to ~~Unlabeled, and proceeding northerly along Unlabeled to Montana Ave, and proceeding easterly along Montana Ave to~~ the point of beginning.

District #5

The region bounded and described as follows:

Beginning at the point of intersection of Chelsea Ave and Wilshire Blvd, and proceeding ~~easterly~~southerly along Chelsea Ave to Santa Monica Blvd, and proceeding easterly along Santa Monica Blvd to Princeton St, and proceeding southerly along Princeton St to Broadway, and proceeding westerly along Broadway to ~~Alley between~~ 19th ~~and 20th St~~Court, and proceeding southerly along ~~Alley between~~ 19th ~~and 20th St~~Court to Colorado Ave, and proceeding westerly along Colorado Ave to ~~Alley between~~ 17th ~~and 18th St~~Court, and proceeding northerly along ~~Alley between~~ 17th ~~and 18th St~~Court to Broadway, and proceeding westerly along Broadway to 16th St, and proceeding northerly along 16th St to Santa Monica Blvd, and proceeding ~~southerly~~westerly along Santa Monica Blvd to ~~Alley between~~ 9th ~~and 10th St~~Court, and proceeding southerly along ~~Alley between~~ 9th ~~and 10th St~~Court to Broadway, and proceeding westerly along Broadway to 7th St,

7

[PROPOSED] JUDGMENT

and proceeding northerly along 7th St to Wilshire Blvd, and proceeding easterly along Wilshire Blvd

to Lincoln Blvd, and proceeding ~~westerly~~northerly along Lincoln Blvd to Montana Ave, and

proceeding easterly along Montana Ave to 9th St, and proceeding southerly along 9th St to Idaho

Ave, and proceeding easterly along Idaho Ave to 17th St, and proceeding ~~easterly~~southerly along

17th St to Wilshire Blvd, and proceeding easterly along Wilshire Blvd to the point of beginning.

District #6

The region bounded and described as follows:

Beginning at the point of intersection of Lincoln Blvd and Montana Ave, and proceeding southerly

along Lincoln Blvd to Wilshire Blvd, and proceeding westerly along Wilshire Blvd to 7th St, and

proceeding southerly along 7th St to Broadway, and proceeding easterly along Broadway to Lincoln

Blvd, and proceeding southerly along Lincoln Blvd to Bay St, and proceeding westerly along Bay St

to 6th St, and proceeding northerly along 6th St to Bay St, and proceeding westerly along Bay St to

Ocean Front Walk, and proceeding northerly along Ocean Front Walk to Pico Blvd Extension~~,~~ (the

line reflecting an extension of Pico Blvd to the western City Boundary), and proceeding westerly

along Pico Blvd Extension to the western City Boundary, and proceeding ~~westerly~~northerly along the

western City Boundary to Montana Ave Extension~~,~~ (the line reflecting an extension of Montana

Avenue to the western City Boundary), and proceeding easterly along Montana Ave Extension to

Montana Ave, and proceeding ~~northerly along Montana Ave to Unlabeled, and proceeding easterly~~

~~along Unlabeled to Montana Ave, and proceeding~~ easterly along Montana Ave to the point of

beginning.

District #7

The region bounded and described as follows:

Beginning at the point of intersection of 11th St and Pico Blvd, and proceeding southerly along 11th

St to Hill ~~Pl N~~Place North, and proceeding westerly along Hill ~~PlN~~Place North to Lincoln Blvd, and

proceeding ~~easterly~~southerly along Lincoln Blvd to Pier Ave, and proceeding easterly along Pier Ave

to Alley east of Lincoln Blvd, and proceeding ~~easterly~~southerly along Alley east of Lincoln Blvd to

Marine ~~Pl N~~Place North, and proceeding easterly along Marine ~~Pl N~~Place North to 11th St, and

proceeding southerly along 11th St to ~~NE boundary of Census Block 060377022021010, and~~

1 ~~proceeding easterly along NE boundary of Census Block 060377022021010 to~~the southern City

2 Boundary, and proceeding westerly along the southern City Boundary to ~~Unlabeled, and proceeding~~

3 ~~westerly along Unlabeled to~~the western City Boundary, and proceeding ~~westerly~~northerly along the

4 western City Boundary to Pico Blvd Extension~~,~~ (the line reflecting an extension of Pico Boulevard to

5 the western City Boundary), and proceeding easterly along Pico Blvd Extension to Ocean Front

6 Walk, and proceeding southerly along Ocean Front Walk to Bay St, and proceeding easterly along

7 Bay St to 6th Street, and proceeding southerly along 6th St to Bay St, and proceeding easterly along

8 Bay St to Lincoln Blvd, and proceeding northerly along Lincoln Blvd to Pico Blvd, and proceeding

9 easterly along Pico Blvd to the point of beginning.

10   **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendant shall hold a

11 district-based special election, consistent with the district map attached as Exhibit A, on July 2, 2019

12 for each of the seven seats on the Santa Monica City Council, and the results of said special election

13 shall be tabulated and certified in compliance with applicable sections of the Elections Code.

14   **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that any person, other than

15 a person who has been duly elected to the Santa Monica City Council through a district-based

16 election in conformity with this judgment, is prohibited from serving on the Santa Monica City

17 Council after August 15, 2019.

18   **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that this Court retains

19 jurisdiction to interpret and enforce this judgment and the Settlement Agreement and to adjudicate

20 any disputes regarding implementation or interpretation of this judgment.

21   **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that, pursuant to Elections

22 Code Section 14030 and Code of Civil Procedure Section 1021.5, Plaintiffs are the prevailing and

23 successful parties and are entitled to recover reasonable attorneys' fees and costs, including expert

24 witness fees and expenses, in an amount to be determined by noticed motion for an award of

25 attorneys' fees and a memorandum of costs for an award of costs, including expert witness fees and

26 expenses.

27   The Clerk is directed to enter this Judgment.

28 Dated: _____   By: _____

[PROPOSED] JUDGMENT

Hon. Yvette M. Palazuelos
Los Angeles Superior Court Judge

[PROPOSED] JUDGMENT

EXHIBIT "A"

Santa Monica - 7 District Plan

0   .33   .67   1
Miles

EX.261-1

PROOF OF SERVICE

I, Cynthia Britt, declare:

I am employed in the County of Los Angeles, State of California. My business address is 333 South Grand Avenue, Los Angeles, California 90071. I am over the age of eighteen years and not a party to the action in which this service is made.

On January 18, 2019, I served

DEFENDANT CITY OF SANTA MONICA'S OBJECTIONS TO PLAINTIFFS' PROPOSED JUDGMENT

on the interested parties in this action by causing the service delivery of the above document as follows:

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robertrubinsf@gmail.com

☑ **BY MAIL**: I placed a true copy in a sealed envelope addressed as indicated above, on the above-mentioned date. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. 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 an affidavit.

☑ **BY ELECTRONIC SERVICE**: I also caused the documents to be emailed to the persons at the electronic service addresses listed above.

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

Executed on January 18, 2019, in Los Angeles, California.

_____
Cynthia Britt

DEFENDANT CITY OF SANTA MONICA'S OBJECTIONS TO
PLAINTIFFS' PROPOSED JUDGMENT