

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 STEVEN BOSWORTH AND L.
STEVAN LEONARD**

After a Decision of the Court of Appeal
Second Appellate District, Division Eight
Case No. B295935 (DEPUBLISHED)

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

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In their amicus curiae brief, Dr. Bosworth and Mr. Leonard acknowledge Defendant-Appellant’s plurality at-large elections dilute the Latino vote, and propose Evaluative Proportional Representation (“EPR”) as an appropriate remedy for combatting that vote dilution. While it may be an interesting system, EPR was not proposed to the Trial Court, or discussed by any of the trial witnesses, and therefore is not part of the record properly considered by this Court.

Several potential remedies were, however, discussed by witnesses at trial and addressed by the Trial Court in its Statement of Decision, and therefore are properly considered by this Court. As explained more fully in Plaintiffs-Respondents’ Opening Brief (pp. 29-33, 66-72) and Reply Brief (pp. 41-45), as well as the Amicus Curiae Brief of FairVote, the Trial Court *did* consider several potential remedies – district-based elections, ranked-choice voting, limited voting and cumulative voting – and found that each would enhance Latino voting power in Santa Monica, giving Latinos greater ability not just to influence elections but also to elect candidates of their choice. (24AA10706-10707; 24AA10733-10735.) One of those – ranked-choice voting – is also a proportional representation system, and has features that are similar in some respects to EPR.

The Trial Court ultimately found that district-based elections was the most appropriate remedy, and accordingly ordered that all future Santa Monica City Council elections be district-based. (24AA10733-10735.)

The Trial Court correctly evaluated: the demographics of the proposed remedial district; the precinct-level results of past city council elections; the political organization of the minority community in the proposed remedial district; the wealth disparities between the majority and minority communities, in light of the extraordinary cost of campaigning citywide in Santa Monica; and the experiences of other jurisdictions that recently adopted district elections. (24AA10734-10735). As discussed more fully in Plaintiffs-Respondents’ briefs, those factual findings are entitled to deference. (Opening Brief, pp. 34-35; Reply Brief, pp. 32-34.) Those factual findings compel the conclusions reached by the Trial Court: that Defendant-Appellant’s plurality at-large elections dilute the Latino vote; and district-based elections is an appropriate remedy in the circumstances of this case.

Nonetheless, the availability of other remedies, “each of which would enhance Latino voting power in Santa Monica over the current at-large system” employed by Appellant-Defendant (24AA10706-10707), further supports the conclusion that Defendant-Appellant’s plurality at-large election system dilutes the Latino vote in violation of the California Voting Rights Act. (See Opening Brief, pp. 70-72; Reply Brief, pp. 44-45; FairVote Amicus Brief, pp. 11-47).

DATED: May 13, 2022

/s/Kevin Shenkman

Attorneys for Plaintiffs-Respondents
Pico Neighborhood Association and
Maria Loya

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 28905 Wight Rd., Malibu, CA 90265.

On May 13, 2022, I served true copies of the following document(s) described as

RESPONSE TO AMICUS BRIEF OF BOSWORTH AND LEONARD

on the interested parties in this action as follows:

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BY ELECTRONIC SERVICE: I caused the document(s) described above to be electronically served via TrueFiling.

And to:

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

Executed on May 13, 2022 at Malibu, California.

/s/Kevin Shenkman

Kevin Shenkman

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