

No. S263972

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

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CITY OF SANTA MONICA,  
*Defendant and Appellant,*

v.

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

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

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

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CITY OF SANTA MONICA  
GEORGE CARDONA (135439)  
Interim City Attorney  
George.Cardona@smgov.net  
1685 Main Street, Room 310  
Santa Monica, California 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, California 90071  
Telephone: (213) 229-7000  
Facsimile: (213) 229-7520

*Attorneys for Defendant and Appellant, City of Santa Monica*

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

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

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

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

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

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

DATED: May 26, 2021

Respectfully submitted,

GIBSON, DUNN & CRUTCHER LLP

By: /s/ Kahn Scolnick  
Kahn Scolnick

*Attorneys for Defendant and  
Appellant City of Santa Monica*

**PROOF OF SERVICE**

I, Daniel R. Adler, declare as follows:

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

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

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Daniel R. Adler

**Respondents' Counsel**

**Method of service**

Morris J. Baller (48928)  
Laura L. Ho (173179)  
Anne P. Bellows (293722)  
GOLDSTEIN, BORGEN,  
DARDARIAN & HO  
300 Lakeside Dr., Suite 1000  
Oakland, California 94612  
Tel: 510-763-9800

Electronic service

Kevin Shenkman (223315)  
Mary Hughes (222662)  
SHENKMAN & HUGHES PC  
28905 Wight Road  
Malibu, California 90265  
Tel: 310-457-0970

Electronic service

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

Electronic service

R. Rex Parris (96567)  
Ellery Gordon (316655)  
PARRIS LAW FIRM  
43364 10th Street West  
Lancaster, California 93534  
Tel: 661-949-2595

Electronic service

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

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

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Kevin Shenkman Shenkman & Hughes 223315	Kishenkman@shenkmanhughes.com	e-Serve	5/26/2021 9:14:43 AM
Theodore Boutrous Gibson Dunn & Crutcher LLP 132099	tboutrous@gibsondunn.com	e-Serve	5/26/2021 9:14:43 AM
Dale Galipo Law Offices of Dale K. Galipo 144074	dalekgalipo@yahoo.com	e-Serve	5/26/2021 9:14:43 AM
Derek Cole Cole & Huber LLP 204250	dcole@colehuber.com	e-Serve	5/26/2021 9:14:43 AM
Steve Reyes California Secretary of State 212849	sreyes@sos.ca.gov	e-Serve	5/26/2021 9:14:43 AM
Ellery Gordon Parris Law Firm 316655	egordon@parrislawyers.com	e-Serve	5/26/2021 9:14:43 AM
Scott Grimes Goldstein,Borgen,Dardarian, Ho	sgrimes@gbdhlegal.com	e-Serve	5/26/2021 9:14:43 AM
Scott Rafferty Law Offices of Scott Rafferty 224389	rafferty@gmail.com	e-Serve	5/26/2021 9:14:43 AM
R. Parris	rrparris@rrexparris.com	e-	5/26/2021



R. Rex Parris Law Firm		Serve	9:14:43 AM
Anne Bellows Goldstein, Borgen, Dardarian & Ho 293722	abellows@gbdhlegal.com	e-Serve	5/26/2021 9:14:43 AM
Todd Bonder Rosenfeld, Meyer & Sussman LLP 116482	tbonder@rmslaw.com	e-Serve	5/26/2021 9:14:43 AM
File Clerk Goldstein,Borgen,Dardarian, Ho	efile@gbdhlegal.com	e-Serve	5/26/2021 9:14:43 AM
Robert Rubin Law Offices of Robert Rubin 085084	robertrubinsf@gmail.com	e-Serve	5/26/2021 9:14:43 AM
Julia Marks Asian Americans Advancing Justice - Asian Law Caucus 300544	juliam@advancingjustice-alc.org	e-Serve	5/26/2021 9:14:43 AM
Laura Ho Goldstein,Borgen,Dardarian, Ho 173179	lho@gbdhlegal.com	e-Serve	5/26/2021 9:14:43 AM
Dan Stormer Hadsell Stormer Renick & Dai LLP 101967	dstormer@hadsellstormer.com	e-Serve	5/26/2021 9:14:43 AM
Ira Feinberg Hogan Lovells US LLP 64066	ira.feinberg@hoganlovells.com	e-Serve	5/26/2021 9:14:43 AM
Elisa DellaPiana Lawyers' Committee for Civil Rights of the SF Bay Area 226462	edellapiana@lccrsf.org	e-Serve	5/26/2021 9:14:43 AM
Morris Baller Goldstein, Borgen, Demchak & Ho 48928	mballer@gbdhlegal.com	e-Serve	5/26/2021 9:14:43 AM
Stuart Kirkpatrick Goldstein, Borgen, Dardarian & Ho	skirkpatrick@gbdhlegal.com	e-Serve	5/26/2021 9:14:43 AM
Milton Grimes Law Offices of Milton C. Grimes 59437	miltgrim@aol.com	e-Serve	5/26/2021 9:14:43 AM
Belinda Helzer Mexican American Legal Defense and Educational Fund 214178	bescobosahelzer@gmail.com	e-Serve	5/26/2021 9:14:43 AM
Attorney Attorney General - Los Angeles Office Court Added 247037	dana.ali@doj.ca.gov	e-Serve	5/26/2021 9:14:43 AM
Christian Contreras Guizar, Henderson & Carrazco, LLP 330269	christian@carrazcolawapc.com	e-Serve	5/26/2021 9:14:43 AM
Joanna Ghosh Lawyers for Justice 272479	joanna@lfjpc.com	e-Serve	5/26/2021 9:14:43 AM
Daniel R. Adler	dadler@gibsondunn.com	e-	5/26/2021

Gibson, Dunn & Crutcher LLP 306924		Serve	9:14:43 AM
George Cardona	george.cardona@santamonica.gov	e-Serve	5/26/2021 9:14:43 AM
Kahn Scolnick 228686	kscolnick@gibsondunn.com	e-Serve	5/26/2021 9:14:43 AM

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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.

5/26/2021

Date

/s/Daniel R. Adler

Signature

Adler, Daniel R. (306924)

Last Name, First Name (PNum)

Gibson, Dunn & Crutcher LLP

Law Firm