

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.

After a Published Decision by the Court of Appeal for the Second Appellate
District, Division Eight, Case No. BC295935
(Subsequently Depublished By This Court)

Reversing a Judgment of the Superior Court of Los Angeles, Case No.
BC616804, The Honorable Yvette M. Palazuelos, Judge Presiding

**APPLICATION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF IN
SUPPORT OF PLAINTIFFS AND RESPONDENTS**

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APPLICATION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF

TO THE HONORABLE TANI CANTIL-SAKAUYE, CHIEF JUSTICE OF THE CALIFORNIA SUPREME COURT:

Pursuant to Rule 8.520(f) of the California Rules of Court, *amici curiae* Professors Sara Sadhwani (Pomona College), Bernard Fraga (Emory University), Janelle Wong (University of Maryland), Marisa Abrajano (University of California, San Diego), Jason Casellas (University of Houston), Lorrie Frasure (University of California, Los Angeles), Matthew Mendez Garcia (California State University, Long Beach), Christian Grose (University of Southern California), Eric Gonzalez Juenke (Michigan State University), Jane Junn (University of Southern California), Taeku Lee (University of California, Berkeley), Gabriele Magni (Loyola Marymount University), Jennifer Merolla (University of California, Riverside), Melissa Michelson (Menlo College), Jessica Lavariega Monforti (California Lutheran University), Jason Morin (California State University, Northridge), Ricardo Ramírez (University of Notre Dame), Paru Shah (University of Wisconsin, Milwaukee), LaFleur Stephens (Princeton University), Dara Strolovitch (Princeton University), Christopher Towler (California State University, Sacramento), and Tom Wong (University of California, San Diego) (collectively, “Amici Scholars”) hereby apply for leave to file the concurrently submitted and appended *amici curiae* brief in support of Plaintiffs and Respondents Pico Neighborhood Association, et al.

Amici Scholars are among the nation’s leading scholars and political scientists in the area of racial and ethnic politics whose focused research interests include Latinx politics, minority voter mobilization, and the political influence of minority voters. They include distinguished scholars, deans and a provost from universities throughout California and the United States. Their extensive work on the political representation, voting behavior, and electoral mobilization of minority communities has been published in peer-reviewed scholarly journals, books, and major media outlets. Owing to their collective scholarship and expertise, the perspective of Amici Scholars will be of assistance to this Court in

deciding the above-captioned matter, particularly with respect to the political and legal significance of so-called “influence districts.”

Amici Scholars have no personal interest in the outcome of this case. However, they do have a vital and continuing professional interest in seeing the jurisprudence of the California Voting Rights Act (CVRA) develop in a manner consistent with the CVRA’s text, purpose, and legislative history and in alignment with the judgment entered by the trial court in this action.

No party nor any counsel for any party in the pending appeal has authored this amicus brief in whole or in part; no such counsel nor any party made any monetary contribution intended to fund the preparation or submission of this brief other than the *amici curiae* and their undersigned counsel in this proceeding.

Amici Scholars therefore request that the instant application to file an *amici curiae* brief be granted.

Respectfully submitted,

DATED: June 10, 2021

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**[PROPOSED] *AMICI CURIAE* BRIEF OF PROFESSORS SARA
SADHWANI, BERNARD FRAGA, JANELLE WONG, MARISA
ABRAJANO, JASON CASELLAS, LORRIE FRASURE, MATTHEW
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AMICI CURIAE BRIEF

INTRODUCTION

When a jurisdiction moves from at-large to district-based elections, and one or more of the resulting districts have a greater proportion of minority voters than the jurisdiction as a whole, the minority community realizes greater political influence. That improvement for the minority community occurs even where the proportion of minority voters in a resulting election district is much less than 50%.

Social and political science research demonstrates that this benefit derives from changes in voter behavior, candidate behavior, and political organization behavior. In districts with a minority proportion greater than the jurisdiction as a whole, minority voter turnout increases; minority candidates are more likely to seek elected office; and political organizations are more attentive to minority voters. These behavioral changes are easily seen when a majority-minority district is established, but they also occur when a so-called “influence district” is established.

This political reality, confirmed by the social science research, contradicts the assumption of the Court of Appeal that a switch to district-based elections would do nothing to improve the fate of a cohesive minority community not concentrated enough to comprise the majority of an election district.

STATEMENT OF INTEREST OF THE *AMICI CURIAE*¹

Amici Curiae (collectively, “Amici Scholars”) are among the nation’s leading scholars and political scientists in the area of racial and ethnic politics whose focused research interests include Latinx politics, minority voter mobilization, and the political influence of minority voters. They include distinguished scholars, deans and a provost from universities throughout California and the United States. Their extensive work on the political representation, voting behavior, and electoral mobilization of minority communities has been published in peer-reviewed scholarly journals, books, and major media outlets. Owing to their collective scholarship and expertise, the perspective of Amici Scholars will be of assistance to this Court in deciding the above-captioned matter, particularly with respect to the political and legal significance of so-called “influence districts.”

Sara Sadhwani is Assistant Professor of Politics at Pomona College and Faculty Fellow at the USC Schwarzenegger Institute. She received her Ph.D. in Political Science from the University of Southern California. As an expert on voting behavior of Latinos and Asian Americans, she has published numerous research articles on the electoral mobilization of minority communities in peer-reviewed journals such as the *Journal of Politics*, *Political Behavior*, *PS: Political Science and Politics*, *California Journal of Politics and Policy*, and the *Journal of Race, Ethnicity, and Politics*. She currently serves on the Citizens Redistricting Commission for the State of California, which is tasked with drawing the district boundary lines for Congress, the State Legislature and the State Board of Equalization. Professor Sadhwani has an interest in this appeal because interpretations of the California Voting Rights Act (CVRA) directly affect her research on minority population size in districts and elected political representation.

¹ No party nor any counsel for any party in this proceeding authored this amicus brief in whole or in part; no such counsel nor any party made a monetary contribution intended to fund the preparation or submission of this brief other than the *amici curiae* or their counsel in this proceeding.

Bernard Fraga is Associate Professor of Political Science at Emory University. He received his Ph.D. in Government and Social Policy from Harvard University. He is an expert on minority voter turnout and the extent to which district factors, including minority population proportions in electoral districts, are related to voter turnout and office-seeking of Black, Latino, and Asian American voters. He is also the award-winning author of *THE TURNOUT GAP: RACE, ETHNICITY AND POLITICAL INEQUALITY IN A DIVERSIFYING AMERICA* (2018) and has published dozens of journal articles on racial and ethnic politics. Professor Fraga has an interest in this appeal because interpretations of the CVRA directly affect his research on the relationship between a district's minority population size and elected political representation.

Janelle Wong is Professor of American Studies and Government and Politics at the University of Maryland. She received her Ph.D. in Political Science from Yale University. She has authored and co-authored numerous books and journal articles about the politics of race, including *IMMIGRANTS, EVANGELICALS AND POLITICS IN AN ERA OF DEMOGRAPHIC CHANGE* (2018), *DEMOCRACY'S PROMISE: IMMIGRANTS AND AMERICAN CIVIC INSTITUTIONS* (2006), and *ASIAN AMERICAN POLITICAL PARTICIPATION: EMERGING CONSTITUENTS AND THEIR POLITICAL IDENTITIES* (2011). She also co-authored an *amicus* brief in the matter of *Shelby County vs. Holder*, 570 U.S. 529 (2013), the United States Supreme Court's landmark ruling regarding the constitutionality of the federal Voting Rights Act (FVRA). Professor Wong's interest in this appeal stems from her research on the institutional barriers to political participation faced by immigrant communities.

Marisa Abrajano is Professor of Political Science and Provost of Earl Warren College at the University of California, San Diego. She received her Ph.D. in Political Science from New York University. She is the author of several books, including two award-winning books entitled *WHITE BACKLASH: IMMIGRATION, RACE AND AMERICAN POLITICS* (2015) and *CAMPAIGNING TO THE NEW AMERICAN ELECTORATE: TELEVISION ADVERTISING TO LATINOS* (2010). She is also the co-author of *NEW FACES, NEW VOICES: THE HISPANIC ELECTORATE IN*

AMERICA (2012). Provost Abrajano has an interest in this appeal due to her extensive research on Latino political participation, Latino voting and campaigns, and concerns over the ways white voters respond to growing numbers of immigrants.

Jason Casellas is Associate Professor of Political Science at the University of Houston, where he specializes in Latino politics, legislative politics, and state and local politics. He received his Ph.D. in Political Science from Princeton University. He is the author of *LATINO REPRESENTATION IN STATE HOUSES AND CONGRESS* (2010) and is the recipient of numerous fellowships and awards. He is also a member of the Texas Advisory Committee of the United States Commission on Civil Rights. His work has appeared in the *Journal of Politics*, *Legislative Studies Quarterly*, *Political Research Quarterly*, *Aztlán: Journal of Chicano Studies*, and other peer-reviewed journals. Professor Casellas has an interest in this appeal as a researcher who has devoted much of his career to identifying how elite-driven methods of targeted campaigns and the design of electoral institutions (*i.e.*, citizen legislatures, part-time v. full-time legislative turnover rates, and term-limits v. non-term-limits) influence Latino representation in politics.

Lorrie Frasure is Associate Professor of Political Science and African American Studies, Department Vice Chair for Graduate Studies in Political Science, and Acting Director of the Ralph J. Bunche Center for African American Studies at the University of California, Los Angeles. She received her Ph.D. in Political Science from the University of Maryland-College Park. She is an expert on diversity in suburban political contexts and the co-Principal Investigator of the Collaborative Multiracial Post-Election Survey (CMPS), one of the largest studies of minority political participation in the United States. She is also the award-winning author of *RACIAL AND ETHNIC POLITICS IN AMERICAN SUBURBS* (2015). Professor Frasure has an interest in this appeal as one who has studied extensively about how demographic changes in local contexts can lead to a reduction in government responsiveness.

Matthew Mendez Garcia is Assistant Professor of Political Science at California State University, Long Beach, with a research focus on representation, legislative behavior, and race and ethnicity. He received his Ph.D. in Political Science from the University of Southern California. He has published numerous articles on the political representation of minorities with a focus on Latinx populations, including “Doubling Down: Inequality in Responsiveness and the Policy Preferences of Elected Officials,” which was featured in *Legislative Studies Quarterly*. Professor Garcia’s interest in this appeal is motivated by his work showing that ethnic cues drive political choices in California local elections among Latino voters.

Christian Grose is Associate Professor of Political Science and Public Policy at the University of Southern California (USC). He received his Ph.D. in Political Science from the University of Rochester. He is the Academic Director of the USC Schwarzenegger Institute for State and Global Policy; he also directs USC’s Fair Maps and Political Reform Lab, where researchers, students, and policy practitioners work together to generate new ideas to reform American democracy. He has authored more than 30 articles and chapters about American politics, public policy, legislative politics, executive politics, race and ethnicity, and political representation that have appeared in prestigious publications such as the *American Journal of Political Science*; the *Journal of Politics*, the *British Journal of Political Science*, *Political Research Quarterly*, and *Legislative Studies Quarterly*. His book, *CONGRESS IN BLACK AND WHITE* (2011), won the award for best book on race and politics from the American Political Science Association. His research has been funded by the Russell Sage Foundation, the Leonardo DiCaprio Foundation, the MIT Election Data Science Center, and others. Professor Grose’s interest in this appeal is rooted in his extensive research on political reforms and voting rights, including the top-two primary, independent redistricting commissions, and his academic work on improving voter access and engagement.

Eric Gonzalez Juenke is Associate Professor of Political Science and Director of Chicano/Latino Studies at Michigan State University. He received his

Ph.D. in Political Science from Texas A&M University. He specializes in Latinx politics, with particular expertise in state and local elections. He has published his research in the *American Journal of Political Science*, the *Journal of Politics*, the *Journal of Race, Ethnicity, and Politics*, *Politics, Groups and Identities*, and *Political Research Quarterly*. Professor Juenke has an interest in this appeal as one who has studied extensively about how minority political representation is facilitated by institutional conditions.

Jane Junn is a Professor of Political Science and Gender and Sexuality Studies at the University of Southern California. She received her Ph.D. in Political Science from the University of Chicago. She is the author of *THE POLITICS OF BELONGING: RACE, IMMIGRATION, AND PUBLIC OPINION* (2013) and editor of *NEW RACE POLITICS: UNDERSTANDING MINORITY AND IMMIGRANT POLITICS* (2008). Professor Junn has an interest in this appeal due to her expertise and ongoing research on the various barriers that racial minorities and immigrant voters confront in the U.S. political system.

Taeku Lee is Associate Dean of Law, George Johnson Professor of Law and Professor of Political Science at the University of California, Berkeley. He received his Ph.D. in Political Science from the University of Chicago. He has authored several books, including *WHY AMERICANS DON'T JOIN THE PARTY: RACE, IMMIGRATION, AND THE FAILURE (OF POLITICAL PARTIES) TO ENGAGE THE ELECTORATE* (2011) and the *OXFORD HANDBOOK OF RACIAL AND ETHNIC POLITICS IN THE UNITED STATES* (2015). He serves on the National Advisory Committee for the U.S. Census Bureau and has previously served in numerous leadership positions. His previous positions include Assistant Professor at Harvard, Robert Wood Johnson Scholar at Yale, Fernand Braudel Senior Fellow at the European University Institute, and Non-Resident Senior Fellow at the Brookings Institution. Dean Lee's interest in this appeal stems from his extensive research on the connection between racial identity and political mobilization.

Gabriele Magni is Assistant Professor of Political Science at Loyola Marymount University. He received his Ph.D. in Political Science from the University of North Carolina at Chapel Hill. His research on how social contexts and group identities influence political preferences and behavior has been published or is forthcoming in journals such as the *American Political Science Review*, the *Journal of Politics*, and the *British Journal of Political Science*, among others. His research has also been supported by the Haas Fund Fellowship and the Royster Society of Fellows. Professor Magni has an interest in this appeal as one who has studied extensively about the critical factors that shape political inclusion, solidarity and representation.

Jennifer Merolla is Professor and Vice-Chair in the Department of Political Science at the University of California, Riverside. She received her Ph.D. in Political Science from Duke University. Her research focuses on how the political environment shapes public opinion and political behavior, specifically with respect to minority political participation and representation and partisan mobilization. She has co-authored two books and her work has also appeared in journals such as *Comparative Political Studies*, *Electoral Studies*, the *Journal of Politics*, the *Journal of Conflict Resolution*, *Perspectives on Politics*, *PNAS*, *Political Behavior*, *Political Research Quarterly*, and *Political Psychology*. Her research has been supported by the National Science Foundation, the Russell Sage Foundation, and Time Sharing Experiments in the Social Sciences. Professor Merolla's interest in this appeal stems from her lengthy research on how the political environment shapes minority political participation and policy attitudes.

Melissa Michelson is Dean of Arts & Sciences and Professor of Political Science at Menlo College and an adjunct lecturer at Stanford University. She received her Ph.D. in Political Science from Yale University. She is a nationally

recognized expert on Latino politics and voter mobilization experiments. She is also an award-winning author of six books, including *MOBILIZING INCLUSION: TRANSFORMING THE ELECTORATE THROUGH GET-OUT-THE-VOTE CAMPAIGNS* (2012), as well as dozens of peer-reviewed journal articles and book chapters. She previously served as a Faculty Fellow at the Stanford University Research Institute for Comparative Studies in Race and Ethnicity. Dean Michelson has an interest in this appeal because interpretations of the CVRA directly affect her research on the systemic constraints on Latinx voter mobilization.

Jessica Lavariega Monforti is Dean of the College of Arts and Sciences and Professor of Political Science at California Lutheran University. She received her Ph.D. in Political Science from Ohio State University. She is an expert on political incorporation and representation of Latino/a immigrants, including several articles on Latino candidates. She has co-authored two books and published over 50 articles and book chapters. She has contributed to news stories appearing in *The New York Times* and *La Opinión*, and on *NPR*. Dean Monforti's interest in this appeal stems from her extensive research on how non-Hispanic white voters politically punish bilingual Spanish-speaking candidates.

Jason Morin is Associate Professor of Political Science at California State University, Northridge. He received his Ph.D. in Political Science from the University of New Mexico. He has co-authored numerous journal articles about the political attitudes and voting behavior of Latino citizens in the United States. Professor Morin has an interest in this appeal as a scholar and teacher who focuses on Latino political engagement and representation, especially in local institutions.

Ricardo Ramírez is Associate Professor of Political Science at the University of Notre Dame and an expert on state and local politics. He received his Ph.D. in Political Science from Stanford University. He is Principal Investigator of a longitudinal study of gendered career paths among Latina/o elected officials and the author of *MOBILIZING OPPORTUNITIES: STATE CONTEXTS, MOBILIZATION AND THE EVOLVING LATINO ELECTORATE* (2013). Professor

Ramírez’s interest in this appeal is rooted in his research showing that Latinx voters in districts with larger Latinx populations benefit from localized resources beyond elected representation.

Paru Shah is Associate Professor in the Department of Political Science at the University of Wisconsin–Milwaukee. She received her Ph.D. in Political Science from Rice University. Her research and teaching focuses on urban governance and politics and public policy. Much of her recent work focuses on Black and Latino elected representation and local minority elected officials’ pathways to office and effects on minority turnout. Her work has been published in leading scholarly journals, including the *American Journal of Political Science*, the *Journal of Politics*, *Political Research Quarterly*, the *Journal of Race, Ethnicity and Politics*, and *Politics, Groups and Identities*. Professor Shah has an interest in this appeal due to her extensive research on minority elected officials in local and urban contexts.

LaFleur Stephens is Assistant Professor of Politics at Princeton University. She received her Ph.D. in Public Policy and Political Science from the University of Michigan. She is the author of *RACE TO THE BOTTOM: HOW RACIAL APPEALS WORK IN AMERICAN POLITICS* (2020) and an expert on how racial resentment drives politics in diverse political contexts. She is a recipient of the National Science Foundation’s Time-Sharing in Experimental Social Sciences Research Grant, as well as grants from the Social Science Research Council and the Center for the Study of Public Policy in Diverse Societies. Professor Stephens’ interest in this appeal stems from her prior research demonstrating that in electoral districts with lower levels of minority population, white elected officials are less likely to demonstrate inclusion and more likely to appeal to racist attitudes among white voters.

Dara Strolovitch is Professor at Princeton University, where she holds appointments in Gender and Sexuality Studies, African American Studies, and the Department of Politics. She received her Ph.D. in Political Science from Yale University. She is a member of the *American Political Science Review* editorial team and a Founding Associate Editor of the *Journal of Race, Ethnicity and*

Politics. She is also the award-winning author of *AFFIRMATIVE ADVOCACY: RACE, CLASS, AND GENDER IN INTEREST GROUP POLITICS* (2007). Her work has received grant and fellowship support from sources including the Brookings Institution, Georgetown University, the American Political Science Association, the National Science Foundation, the Russell Sage Foundation, the Aspen Institute, the Irving Louis Horowitz Foundation, and the Social Sciences and Humanities Research Council of Canada. Professor Strolovitch's interest in this appeal derives from her long years of research expertise in the political representation of marginalized groups.

Christopher Towler is Assistant Professor of Political Science at California State University, Sacramento. He received his Ph.D. in Political Science from the University of Washington. He has expertise in Black voter issues and is Principal Investigator of *The Black Voter Project* and he serves as Senior Policy Fellow, California Policy & Research Institute (CalPRI). His work examines ideological predispositions, alienation, political allegiance and support, and his recent projects explore the dynamic relationship between progressive social movements and far-right movements reacting to great social change. Professor Towler's interest in this case stems from his research and work on Black political empowerment.

Tom Wong is Associate Professor of Political Science and Founding Director of the U.S. Immigration Policy Center (USIPC) at the University of California, San Diego. He received his Ph.D. in Political Science from the University of California, Riverside. He served as an advisor to the White House Initiative on Asian Americans and Pacific Islanders (WHIAAPI) under the Obama administration where he co-led the immigration portfolio and was appointed by Governor Jerry Brown to serve on the State of California's 2020 Census Complete Count Committee (CCC). He is also Co-Director of the Human Rights and Migration

program. His research has been used by policymakers both in the U.S. and in Mexico, as well as by organizations that serve immigrant communities. Professor Wong has an interest in this appeal due to his extensive research on mobilizing low-propensity voters, particularly Latino immigrants.

ARGUMENT

I. At-Large Election Systems Have Historically Excluded Minority Voters from Full Participation in Democratic Processes

Across the United States, including in California, electoral rules have been used to systematically exclude racial or ethnic minority voters from the political process. At-large elections systems, in particular, have been found to have a discriminatory and exclusionary impact on minority voters. (See, e.g., Chandler Davidson & George Korb, *At-Large Elections and Minority-Group Representation: A Re-Examination of Historical and Contemporary Evidence*, 43 J. POL. 982-1005 (2018); David Leal, et al., *The Politics of Latino Education: The Biases of At-Large Elections*, 66 J. POL. 1224-1244 (2004).) A key question when evaluating the potentially discriminatory consequences of such systems is the extent to which a minority community's vote is diluted within a majority population whose candidate of choice differs, such that the minority group is systematically denied the opportunity to elect or help to elect a candidate they view as best serving their representational needs.

Contrary to the express text of the CVRA, as well as the results of political science research, the Court of Appeal's now-depublished opinion in this case wrongly concluded that minority vote dilution is prohibited by the CVRA only if the racial or ethnic minority group is geographically concentrated and large enough to compose an electoral majority within a single-member district. While we do not dispute that the creation of majority-minority districts may be a preferred option when drawing district lines, a majority-minority-*only* approach overlooks clear empirical evidence that concentrating minority voting strength to the extent possible, as in *influence districts*, enhances the ability of minority voters to impact election outcomes. Social science research on jurisdictions in which racial/ethnic minority communities constitute less than a majority of a district's population, yet still a significant proportion of district voters, reveals benefits in voter mobilization, participation, and most importantly, growth in influence over the outcome of elections. As a result, in places where a majority-minority district cannot be constructed due to the size or dispersion of the racial

minority population, influence districts provide significant and multifaceted benefits in the same manner as majority-minority districts.

As demonstrated below, social and political science research shows that minority communities benefit from so-called “influence districts” for a variety of reasons. As the proportion of minority voters increases, as it almost certainly does when moving from at-large elections to a remedial single-member district, minority voters become more likely to elect candidates of choice, even when they constitute less than a majority themselves. Furthermore, minority voter mobilization and participation in elections increases as they make up a larger share of the population of potential voters in a particular election, even when they constitute less than a majority. These benefits of influence districts exist not only where a minority constitutes almost 50% of a district; social and political science research demonstrates that these same benefits accrue to minority groups where they constitute 30%, or even less, of the electorate of a district, compared to a significantly smaller proportion of the corresponding at-large electorate.

By 2015, racial and ethnic minorities collectively outnumbered non-Hispanic whites in California. Yet despite this change in the demographics of the state, racial and ethnic minorities who have been historically excluded from full participation in democratic processes continue to see lower rates of participation and fewer elected officials. According to the U.S. Census Bureau’s Current Population Survey, in California, 74.6% of non-Hispanic white voting-age citizens voted in the November 2020 election, while only 64.0% of Black voting-age citizens, 59.9% of Asian voting-age citizens, and 54.6% of Hispanic voting-age citizens voted. (U.S. Census Bureau, *Reported Voting and Registration, by Sex, Race and Hispanic Origin, for States: November 2020 (Table 4b)* (Apr. 21, 2021), <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-585.html>.) This is despite record registration and turnout levels witnessed in the 2020 presidential election in California and elsewhere.

While California is leading efforts to expand voting access, representational equity is not yet realized. Historically excluded communities continue to face significant barriers to full inclusion; consequently, laws designed

to foster greater inclusion, participation, and representation, such as the CVRA, should be upheld and enforced according to their express terms. As discussed below, enforcement of the CVRA, even where a majority-minority district is not possible, benefits those historically excluded communities by allowing them to attain commensurate influence and representation in their local governments.

II. Even When They Constitute Less Than a Majority, Minority Voters Become More Likely to Elect Candidates of Choice in a District Election System

The patterns outlined above are not unique to California. Minority officeholders continue to be a rarity across the United States - including municipal bodies. (*See, e.g.*, Eric Gonzalez Juenke & Robert R. Pruehs, *Irreplaceable Legislators? Rethinking Minority Representative in the New Century*, 56 AM. J. POL. SCI. 705-715 (2012); Bernard L. Fraga, et al., *Did Women and Candidates of Color Lead or Ride the Democratic Wave in 2018?*, 53 PS POL. SCI. POL.435–439 (2020).) Overwhelmingly, social science research has concluded that minority candidates are more likely to emerge and win where there is a larger proportion of minorities in the electoral jurisdiction. (*See* Chandler Davidson & Bernard Grofman, *QUIET REVOLUTION IN THE SOUTH: THE IMPACT OF THE VOTING RIGHTS ACT 1965-1990* (1994); Bernard Grofman, et al., *MINORITY REPRESENTATION AND THE QUEST FOR VOTING EQUALITY* 62, 122 (1992).) Much of the literature focuses on majority-minority districts, with the literature noting majority-minority districts offer the best opportunities for minority-preferred candidates to be successful. (*See, e.g.* David Lublin, *THE PARADOX OF REPRESENTATION: RACIAL GERRYMANDERING AND MINORITY INTERESTS IN CONGRESS* 44-51 (1997); David Canon, *RACE, REDISTRICTING, AND REPRESENTATION: THE UNINTENDED CONSEQUENCES OF BLACK MAJORITY DISTRICTS* 133-135 (1999); Bernard Grofman, et al., *Drawing Effective Minority Districts: A Conceptual Framework and Some Evidence*, 79 N.C. L.REV. 1383–1430 (2001); David Lublin, et al., *Has the Voting Rights Act Outlived Its Usefulness? In a Word, 'No'*, 34 LEGIS. STUD. Q. 525–553 (2009).)

While at-large election systems, by their nature, typically eliminate the possibility of any such majority-minority district, district election systems may offer possibilities of drawing majority-minority districts. However, where constructing a majority-minority district is not possible in a district election system, keeping communities that have faced discrimination and exclusion intact as a community of interest within one or more influence districts offers the best opportunity for minority communities to consolidate their resources, organize their political power, and demonstrate their political interests at the ballot box. Political science research demonstrates that such districts allow racial/ethnic minority communities to influence the outcome of elections by electing candidates who more meaningfully engage the community and offer improved responsiveness to their needs, while simultaneously helping shape the supply of candidates who run for election.

First, as the name suggests, influence districts that concentrate minority voters into district that do not meet the majority-minority threshold nevertheless offer an opportunity for minority voters to significantly influence the outcome of an election. In such jurisdictions, candidates who garner the strongest support from minority voters have the opportunity to secure a victory by combining minority voting influence with some share of votes from the majority group or by leveraging a multi-stage electoral system. (Bernard Grofman, et al., *Drawing Effective Minority Districts: A Conceptual Framework and Some Evidence*, 79 N.C. L.REV. 1383–1430 (2001).) Scholars have indeed argued against a strict fifty percent (50%) threshold for determining where minority citizens can exert political influence, instead imploring analysts to consider places where minority voters have elected candidates of choice despite a smaller share of the population. (*Id.*) Therefore, concentrating a community into a district where they can be influential in the outcome of an election is more likely to lead to the community having political clout; this represents a distinct improvement in representational equity compared to a situation in which their voting strength is diminished and diluted across the entire jurisdiction. (David Leal, et al., *The Politics of Latino Education: The Biases of At-Large Elections*, 66 J. POL. 1224-1244 (2004).)

Furthermore, jurisdictions that concentrate minority voters – even when they do not constitute a majority within a district – are concentrating not just a host of individuals, but the communities in which they reside, along with the collective and localized economic and social resources they share, toward more responsive political outcomes within those jurisdictions. In a widely cited and foundational account, *Strength in Numbers: The Political Mobilization of Racial and Ethnic Minorities*, Jan Leighley offers a nuanced theory of how class, race and ethnicity interact toward participation and mobilization. (See Jan Leighley, *STRENGTH IN NUMBERS: THE POLITICAL MOBILIZATION OF RACIAL AND ETHNIC MINORITIES* 144 (2001).) She finds that race and ethnicity structure participation, and that the local political and social context that exists in a jurisdiction influences racial/ethnic minorities’ decisions to participate in local politics. Similarly, Ricardo Ramírez found that Latino voters in districts with large proportions of their community benefit from localized resources which lead to proactive mobilization. (See Ricardo Ramírez, *MOBILIZING OPPORTUNITIES: THE EVOLVING LATINO ELECTORATE AND THE FUTURE OF AMERICAN POLITICS* 14-15 (2013).) Spanish language media markets, local non-profit advocacy groups, centers of worship, as well as local and culturally competent service providers such as community clinics or organizations that provide legal services related to wage theft or immigration serve as important resources for spreading knowledge of upcoming elections, locations of voting centers and precincts, and information about candidates or propositions appearing on the ballot. In other words, keeping communities intact and concentrated within a district offers the best opportunity for minority communities to consolidate their resources, build their collective political power, and demonstrate their political interests at the ballot box.

Candidates and elected officials understand this power. When a community is concentrated within a district such that they have power to determine or significantly influence the outcome of an election, candidates make clear appeals to minority voters. They become responsive to minority voter concerns and bring them into a support coalition for their campaigns. For Latinos, this might include Spanish-language materials, events, and phone banking. A

similar phenomenon can be seen in other contexts where Latinos do not comprise a majority within a district. For example, in *LATINO REPRESENTATION IN STATE HOUSES AND CONGRESS*, Jason Casellas argues that while shifting demographics are one component leading toward greater Latino representation in legislative bodies, the design of electoral institutions as well as the elite-driven methods of targeted campaigns are all key features for increasing Latino representation in American democracy. (See Jason Casellas, *LATINO REPRESENTATION IN STATE HOUSES AND CONGRESS* 51-75 (2010).)

The alternative – *i.e.*, when minority communities are dispersed in at-large systems with minimal voting power and a white majority – is that candidates appeal to the majority. Recent work from LaFleur Stephens-Dougan confirms that, in such circumstances, candidates use a form of “racial distancing” in their campaign appeals to neutralize race or even employ negative racial communications to signal that they will not disrupt the racial status quo. (See La Fleur Stephens-Dougan, *RACE TO THE BOTTOM: HOW RACIAL APPEALS WORK IN AMERICAN POLITICS* 26 (2020). This tendency of candidates to ignore minority voters' interests in white-majority jurisdictions is alleviated in districts with substantial concentrations of minority voters. Among those elected to office, Christian Grose finds substantive representational gains, such as improved policy making for communities when they constitute an electorally important bloc within a district, even when that district is not a majority-minority district. (See Christian Grose, *CONGRESS IN BLACK AND WHITE: RACE AND REPRESENTATION IN WASHINGTON AND AT HOME* 35 (2011).) Moreover, maintaining systems in which a minority racial/ethnic community is dispersed places constraints on the community's ability to garner meaningful engagement from candidates and responsive representation from elected officials.

Finally, claims brought by plaintiffs under the CVRA and the FVRA typically seek remedies for demand-side considerations of voters. At the heart of discussions of minority representation is the political theory of descriptive representation – the idea that a representative stands for their constituents by mirroring them. Numerous studies have examined the co-ethnic bonds between

candidates or legislators of color and the minority communities they represent. (See, e.g., Jane Mansbridge, *Should Blacks Represent Blacks and Women Represent Women? A Contingent 'Yes'*, 61 J. POL. 628–57 (1999); Matt A. Barreto, ETHNIC CUES: THE ROLE OF SHARED ETHNICITY IN LATINO POLITICAL PARTICIPATION (2010).) Indeed, social science literature as well as contemporary survey analysis points to the psychological benefit or empowerment that minority communities feel when “one of their own” is elected to office. (Lawrence Bobo & Franklin D. Gilliam, *Race, Sociopolitical Participation, and Black Empowerment*, 84 AM. POL. SCI. REV. 377–393 (1990); Gabriel R. Sanchez & Jason L. Morin, *The Effect of Descriptive Representation on Latinos' Views of Government and of Themselves*, 92 SOC. SCI. Q. 483–508 (2010).)

One component that undergirds the election of more minority candidates to office, however, is the emergence of minority candidates who can be elected. Minority candidates overwhelmingly run for office in districts with large percentages of co-ethnic/co-racial voters. (See, e.g., Eric Gonzalez Juenke & Robert R. Pruehs, *Irreplaceable Legislators? Rethinking Minority Representative in the New Century*, 56 AM. J. POL. SCI. 705-715 (2012); Eric Gonzalez Juenke, *Ignorance is Bias: The Effect of Latino Losers on Models of Latino Representation*, 58 AM. JOL. POL. SCI. 593–603 (2014); Angela X. Ocampo, *The Wielding Influence of Political Networks: Representation in Majority-Latino Districts*, 71 POL. RSCH. Q. 184-198 (2018).) Among the key factors to the emergence of minority candidates is the availability of local resources – i.e., local elites, political parties and interest groups – in districts where minority communities are concentrated. (See, e.g., David D. Brockman, *Distorted Communication, Unequal Representation Constituents Communicate Less to Representatives Not of Their Own Race*, 58 AM. J. POL. SCI. 307-321 (2014); Dara Strolovitch, AFFIRMATIVE ADVOCACY: RACE, CLASS AND GENDER IN INTEREST GROUP ADVOCACY 5-8 (2008).) Because these local resources often recruit and develop potential candidates to run a campaign and hold office, the availability of such local resources plays a vital role in the emergence of minority candidates who can be elected. (*Id.*) Importantly, these factors can be present even outside

of majority-minority districts. (See generally Eric Gonzalez Juenke, *Ignorance is Bias: The Effect of Latino Losers on Models of Latino Representation*, 58 AM. JOL. POL. SCI. 593–603 (2014); Eric Gonzalez Juenke & Paru Shah, *Not the Usual Story: The Effect of Candidate Supply on Models of Latino Descriptive Representation*, 3 POLITICS, GROUPS, AND IDENTITIES 438–453 (2015); Eric Gonzalez Juenke & Paru Shah, *Demand and Supply: Racial and Ethnic Minority Candidates in White Districts*, 1 J. RACE, ETHN. POL. 60–90 (2016); Bernard L. Fraga, et al., *One Run Leads to Another: Minority Incumbents and the Emergence of Lower Ticket Minority Candidates*, 82 J. POL. 771-775 (2020).) However, where racial/ethnic minorities make up a smaller share of the electoral unit’s population, such as in an at-large system that disperses minority voting strength, factors facilitating minority candidate emergence are less common.

Majority-minority districts offer the best opportunities for minority candidates to be successful in securing victory in the outcome of an election. Yet, where constructing a majority-minority district is not possible, there are clear benefits in concentrating racial/ethnic minority communities who have faced historical or contemporary discrimination and exclusion, and who exhibit systematically disproportionate lower political participation outcomes. These communities constitute economic, social, cultural and linguistic communities of interest; keeping them together in an influence district, as opposed to dispersing them in an at-large system, offers the best opportunity for minority communities to: (1) consolidate their resources; (2) organize their political power toward a pipeline of candidates who will provide responsive representation and have a realistic opportunity to run and win; and (3) demonstrate their political interests at the ballot box. Conversely, failure to take advantage of the potential benefits of concentrating minority communities of interest in districts, even where they don't constitute a majority, diminishes a minority community's political opportunities.

III. Even in Districts Where Minority Voters Constitute Less Than a Majority, Voter Mobilization and Participation in Democratic Processes Increase When Minority Communities are Not Dispersed in an At-Large System

While concentrating minority voting power into districts offers the benefits of an increased supply of minority candidates and improved opportunities to influence the outcome of elections, influence districts offer additional participatory benefits. Indeed, theoretical and empirical evidence linking minority candidates to increased minority turnout is effectively a maxim in the study of race and political behavior (*see, e.g.*, Robert A. Dahl, “WHO GOVERNS,” DEMOCRACY AND POWER IN AN AMERICAN CITY 32-36 (1961); Lawrence Bobo & Franklin D. Gilliam, *Race, Sociopolitical Participation, and Black Empowerment*, 84 AM. POL. SCI. REV. 377–393 (1990); Matt Barreto, ETHNIC CUES: THE ROLE OF SHARED ETHNICITY IN LATINO POLITICAL PARTICIPATION (2010)) and has been advanced when looking at the behavior of African American, Latino and Asian American communities. Since minority candidates are more likely to emerge in places where minority voters are concentrated, as in influence districts, such districts will also boost participation for minority citizens and thereby enhance the opportunity of minority voting blocs to elect candidates of preference.

Studies of the power of shared or “co-” ethnicity between (potential) voters and candidates have a long history in American politics. In a 1965 study of Italian and Irish immigrant communities in New Haven, Connecticut, political scientist Raymond Wolfinger articulated a mobilization theory of ethnic voting. (Raymond Wolfinger, *The Development and Persistence of Ethnic Voting*, 59 AM. POL. SCI. REV. 896-908 (1965).) Despite upward economic mobility within immigrant communities, which might otherwise suggest a level of integration or assimilation, Wolfinger observed strong partisan attachments and support for co-ethnic candidates. (*Id.*) Scholarship considering co-ethnicity among African American voters theorized that the presence of Black elected officials creates a more trusting orientation toward the political process and could stimulate the subsequent political engagement of African Americans. (Lawrence Bobo &

Franklin D. Gilliam, *Race, Sociopolitical Participation, and Black Empowerment*, 84 AM. POL. SCI. REV. 377–393 (1990); Kenny Whitby & Franklin D. Gilliam, *A Longitudinal Analysis of Competing Explanations for the Transformation of Southern Congressional Politics*, 53 J. POL. 504-518 (1991).) Studies examining differences in political participation outcomes by racial group have found higher participation levels of African Americans compared to whites of similar socioeconomic background. (See, e.g., Arthur Miller, et al., *Group Consciousness and Political Participation*, 35 AM. J. POL. SCI. 494-511 (1981); Richard Shingles, *Black Consciousness and Political Participation: The Missing Link*, 75 AM. POL. SCI. REV. 76-91 (1981); Sidney Verba & Norman Nie, PARTICIPATION IN AMERICA 149-173 (1972).)

Underlying the notion that co-ethnicity “empowers” and stimulates voter turnout are theoretical presumptions about the psychological processes inherent in minority group membership. Group consciousness is a multidimensional construct that considers the structural hierarchy of society, individuals’ views of where their in-group stands within that structure, and those individuals’ perception that acting together as a group may improve the group’s standing within the hierarchy. (Paula McClain, et al., *Group Membership, Group Identity, and Group Consciousness: Measures of Racial Identity in American Politics?*, 12 ANN. REV. POL. SCI. 471-485 (2009); Mary Jackman & Robert Jackman, *An Interpretation of the Relation between Objective and Subjective Social Status*, 38 AM. SOC. REV. 569-582 (1973); Patricia Gurin, et al., *Stratum Identification and Consciousness*, SOC. PSY. Q. 30–47 (1980).) Group consciousness is operationalized as survey items such as linked fate – a measures of the closeness one feels to other in-group members and a belief that one’s fate is linked to that of the group. Linked fate and group consciousness within minority communities is a predominant theoretical assumption that undergirds many empirical demonstrations of increased voter turnout often considered the “identity-to-politics” link. (See generally Taeku Lee, *From Shared Demographic Categories to Common Political Destinies: Immigration and the Link from Racial Identity to Group Politics*, 42 DU BOIS REV.: SOC. SCI. RSCH. ON RACE 433-456 (2007).)

Amongst Latinos in particular, research has shown a significant level of both group consciousness and linked fate. The process for acquiring linked fate among Latinos has been found to be different from that of African Americans. (See, e.g., Gabriel Sanchez, *The Role of Group Consciousness in Political Participation Among Latinos in the United States*, 34 AM. POL. RSCH. 427-450 (2006); Gabriel Sanchez & Edward Vargas, *Taking a Closer Look at Group Identity: The Link Between Theory and Measurement of Group Consciousness and Linked Fate*, 69 POL. RSCH. Q. 160-174 (2006).) Lacking a common history or a singular type of immigrant experience, Sanchez and Masuoka found linked fate to be highest among Spanish-dominant respondents. (See Gabriel Sanchez & Natalie Masuoka, *Brown-Utility Heuristic? The Presence and Contributing Factors of Latino Linked Fate*, 32 HISP. J. BEHAV. SCI. 519-531 (2010).)

Notably, the mere *presence* of a co-ethnic candidate on the ballot does not always lead to a mobilizing effect. (See, e.g., Kimball Brace, et al. *Minority Turnout and the Creation of Majority-Minority Districts*, 23 AM. POL. Q. 190–203 (1995); Claudine Gay, *The Effect of Black Congressional Representation on Political Participation*, 95 AM. POL. SCI. REV. 589–602 (2001); Katherine Tate, *Black Opinion on the Legitimacy of Racial Redistrict and Minority-Majority Districts*, 97 AM. POL. SCI. REV. 45-56 (2003); John D. Griffin & Michael Keane, *Descriptive Representation and the Composition of African American Turnout*, 50 AM. J. POL. SCI. 998–1012 (2006); Luke J. Keele & Ismail K. White, *African American Turnout and African American Candidates*, 7 POL. SCI. RSCH. METHODS 431–449 (2019).) Recent scholarship has found that the mechanism driving minority voter turnout is not simply shared candidate ethnicity, but the *size of the minority population* within a district. (See, e.g., Bernard L. Fraga, *Candidates or Districts? Reevaluating the Role of Race in Voter Turnout*, 60 AM. J. POL. SCI. 97–122 (2016); Bernard L. Fraga, *THE TURNOUT GAP: RACE, ETHNICITY, AND POLITICAL INEQUALITY IN A DIVERSIFYING AMERICA* 139 (2018); Sara Sadhwani, *Asian American Mobilization: The Effect of Candidates and Districts on Asian American Voting Behavior*, POL. BEHAV. 1-27 (2020).) As noted above, minority candidates are more likely to emerge in places where the

minority population is greater and where minority voters can influence election outcomes. In other words, minority citizens are more likely to be mobilized in general elections as their share of the population increases. This finding has included examinations of the four largest racial groupings in the U.S. including whites, African Americans, Latinos and Asian Americans.

Fraga directly examines co-ethnicity and jurisdictional composition as determinants of voter turnout by leveraging a nationwide database of over 185 million individual registration records, including estimates for the race of every voter. (See Bernard L. Fraga, *Candidates or Districts? Reevaluating the Role of Race in Voter Turnout*, 60 AM. J. POL. SCI. 97–122 (2016); Bernard L. Fraga, THE TURNOUT GAP: RACE, ETHNICITY, AND POLITICAL INEQUALITY IN A DIVERSIFYING AMERICA 139 (2018).) He finds that disparities in voter turnout rates between non-Hispanic white voting-age citizens and minority voting-age citizens shrinks in congressional districts with a larger minority population, *even when the minority group makes up less than a majority of the population and even when no co-ethnic candidate is on the ballot*. The gap between white and Black turnout rates are cut by an average of 75% in districts that are between 15% Black and 50% Black, relative to districts that are less than 15% Black. (Bernard L. Fraga, THE TURNOUT GAP: RACE, ETHNICITY, AND POLITICAL INEQUALITY IN A DIVERSIFYING AMERICA (2018) at p. 132, table 6.1.) Similarly, the gap between white and Latino turnout is cut by an average of 37% in districts that are between 15% Latino and 50% Latino, relative to districts that are less than 15% Latino. (*Id.* at p. 133, table 6.2.) Asian American turnout also improves, relative to whites, in heavily-Asian districts: the gap between white turnout and Asian American turnout is cut by an average of 29% in districts that are between 15% Asian and 50% Asian, relative to districts that are less than 15% Asian CVAP. (*Id.* at p. 134, table 6.3.) Examining California in isolation, Sadhwani found the same pattern amongst Latinos and Asian Americans, using surname-matched vote returns from the California State Assembly across four election cycles. (See Sara Sadhwani, *Asian American Mobilization: The Effect of Candidates and Districts on Asian American Voting Behavior*, POL. BEHAV. 1-27 (2020).) In

particular, moving from districts in which less than 15 percent of district residents are Asian American to districts in which 15-30 percent of the population is Asian American, there was a 3.9 percentage point rise in voter turnout. (*Ibid.* at p.10, fig. 1).

While other states may be taking the path of disenfranchisement and voter suppression, California – through measures such as the CVRA, the California Voter’s Choice Act, and the creation of the Citizens Redistricting Commission – has made a strong commitment to the incorporation and inclusion of racial/ethnic minority voting communities. Though there may be some who argue that there are no practical benefits to the creation of influence districts, the social science research highlighted here conclusively debunks that argument. This research finds that as the proportion of a minority community rises in a district – even where it does not reach the level of a majority or anything close to a majority – those minorities become increasingly likely to participate at the ballot box, the quintessential activity of democracy. This finding is not unique to California. It has been replicated in varying district contexts nationwide. Thus, the findings of political science demonstrate that in a situation such as that existing in the City of Santa Monica, the creation of a district with a concentration, albeit not a majority or near-majority, of Latino voters may be expected to support effective political participation of Latinos, thereby enhancing the Latino community’s ability to organize itself and consolidate and flex its political power.

IV. Conclusion

For the foregoing reasons, and those stated by Plaintiffs and Respondents, Amici Scholars respectfully urge this Court to reverse the Court of Appeal and affirm the trial court's Judgment.

Respectfully submitted,

DATED: June 10, 2021

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CERTIFICATE OF COMPLIANCE

Pursuant to Rule 8.204(c)(1) of the California Rules of Court, the undersigned hereby certify that the typeface in the attached brief is proportionally spaced, the type style is roman, the type size is 13 points or more and the word count for the portions subject to the restrictions of Rule 8.204(c)(3) is 7,375.

DATED: June 10, 2021

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PROOF OF SERVICE

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

Executed on June 10, 2021, at Los Angeles, California.



Michelle A. Mabugat

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **PICO NEIGHBORHOOD ASSOCIATION v. CITY OF SANTA MONICA**

Case Number: **S263972**

Lower Court Case Number: **B295935**

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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.

6/10/2021

Date

/s/Michelle Mabugat

Signature

Mabugat, Michelle (280292)

Last Name, First Name (PNum)

Greenberg Glusker LLP

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