

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,

**MOTION BY PLAINTIFFS-RESPONDENTS TO STRIKE AMICUS
CURIAE BRIEF OF LEAGUE OF WOMEN VOTERS OF SANTA
MONICA, ET AL. IN SUPPORT OF DEFENDANT-APPELLANT
CITY OF SANTA MONICA**

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

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

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*Attorneys for Plaintiffs-Respondents Pico Neighborhood Association and
Maria Loya*

Plaintiffs-Respondents Pico Neighborhood Association and Maria Loya hereby move, pursuant to California Rules of Court 8.54(a), to strike the Amicus Curiae Brief of League of Women Voters of Santa Monica, Alliance of Santa Monica Latino and Black Voters (“Alliance”), Human Relations Council Santa Monica Bay Area (“Council”), and Community for Excellent Public Schools (“Community”).

Alliance, Council and Community are neither a “person” nor an “entity” permitted to file an amicus curiae brief under California Rule of Court 8.520(a). Those amici are not entities possessing a cognizable legal existence at the time of filing of their brief, and do not purport to be individuals. As attested to in the attached Declaration of Kevin Shenkman, no entities with the names provided in Amici’s Application for Alliance, Council or Community are listed as entities in the records of the California Secretary of State, the Registry of Charitable Trusts maintained by the California Department of Justice, Los Angeles County’s registry of fictitious business names, or the Internal Revenue Service’s registry of tax exempt organizations. (Shenkman Decl. ¶¶4-5 & Ex. A.) While an organization with a name similar to that of Council was formerly registered with the California Secretary of State, that entity is not in good standing and has been suspended by the Franchise Tax Board. (Shenkman Decl. ¶6 & Ex. B.)

A corporation that is not in good standing “lacks the legal capacity to prosecute or defend a civil action.” (*City of San Diego v. San Diegans for Open Government* (2016) 3 Cal.App.5th 568, 577). A “corporation suspended for nonpayment of taxes is disabled from resort to the courts for any purpose.” (*Palm*

Valley Homeowners v. Design MTC (2000) 85 Cal.App.4th 553, 560).¹ The same rule applies to non-profit organizations and in appellate courts. (See *Center for Self-Improvement & Comm. Devel. V. Lennar* (2009) 173 Cal.App.4th 1543, 1549 [“Corporate incapacity is ... a legal disability, depriving the party of the right to come into courts and represent its own interests.”]).² Filing an amicus curiae brief is likewise a formal action by an amicus to “come into the courts,” and therefore the same logic and result apply. (*Id.*)

Among the purposes of requiring registration with governmental authorities is that the public and the courts can be assured that organizations purporting to represent the interests of groups of persons or organized entities can be identified and located, and that their interests and purposes can be known. In the absence of such assurance that a purported organization actually exists and represents the concerns or interests it purports to, neither the courts nor the public have any reliable way to know who, or what, is responsible for the positions being espoused.³ For example, in this case the Alliance, Council, and Community may

¹ In both *San Diegans for Open Government* and *Palm Valley Homeowners*, the Courts of Appeal recognized that the attorneys who knowingly represented organizations not in good standing had engaged in unethical and sanctionable conduct.

² The cited cases involved for-profit and non-profit entities that failed to pay required taxes, but the specific reason for the suspensions of their legal status was not relevant to the courts’ reasoning or holdings. The courts’ rationale for why a suspended entity lacks legal capacity applies even more strongly to entities such as the two amici here – the Alliance and the Community – which as far as can be determined from public records may never have had any cognizable status as legal entities.

³ The California Department of Justice, which administers laws and regulations applicable to non-profit organizations, states that “A charitable organization that is not in good standing with the Registry of Charitable Trusts may not operate or

– and to all appearances based on public records are – merely high-minded sounding titles for private individuals who seek to advance their personal views or agendas cloaked behind those impressive-sounding names.

Individuals may, of course, seek to inform the Court of their personal views, as several individuals have done in filing amicus curiae briefs in this case. The Court should know when such views are those of individuals who cannot in a legally proper manner speak for legitimate organizations, who those individuals are, and what individual stake or interest they have in the case. The Court might, if fully informed in these matters, accord less importance to such individual views than it would to those of legitimate organizations in good legal standing, or it might gain additional perspective on the personal opinions expressed under the cloak of an organizational name. The filing of an amicus curiae brief purporting to express the views of organizations that lack the legal capacity to convey those views to the Court, deprives the Court of the ability to evaluate that brief fully and accurately. (Cf. *Military Audit Project v. Casey* (D.C. Cir. 1981) 656 F.2d 724, 730 n. 11 [“The fact that the FOIA is a liberal disclosure statute and that the identity of the requestor is immaterial does not imply, however, that a nonexistent entity concocted out of thin air by the imagination of some single person can file a lawsuit in court and have it honored in the fictitious entity’s name.”].)

solicit donations in California. (Cal.Code of Regs, tit. 11 section 999.9.4.).” (See, <https://www.org.ca.gov/charities/delinquency>.) The language “to operate” signals a broader prohibition than merely one on solicitation of donations.

For these reasons, Plaintiffs and Respondents request the Court to strike the amicus curiae brief filed by attorneys Christopher Harding and Joseph Pertel on behalf of their purported, but legally incapacitated, “clients”.

DATED: July 8, 2021

/s/ Kevin Shenkman

Attorneys for Plaintiffs-Respondents
Pico Neighborhood Association and Maria
Loya

DECLARATION OF KEVIN SHENKMAN

I, Kevin Shenkman, declare as follows:

I am a partner with the law firm Shenkman & Hughes PC, counsel for Plaintiffs-Respondents Pico Neighborhood Association and Maria Loya in the above-referenced case. I am authorized to practice law in the State of California and submit this declaration in support of Plaintiffs-Respondents' motion to strike the amicus brief submitted by attorneys Christopher Harding and Joseph Pertel, purportedly on behalf of several entities. The following matters are based upon my personal knowledge, and if called to testify to such facts, I could and would do so competently.

1. The amicus brief submitted by attorneys Christopher Harding and Joseph Pertel purports to be submitted on behalf of four organizations: "League of Women Voters of Santa Monica"; "The Alliance of Santa Monica Latino and Black Voters"; "Human Relations Council Santa Monica Bay Area"; and "Community for Excellent Public Schools."

2. Having litigated the above-captioned case for over five years, and having personally worked thousands of hours on this case during that time and having investigated the politics of Santa Monica, I have become very familiar with all of the political actors and groups in Santa Monica. Prior to being served with their amicus brief, I had never heard of some of these purported organizations. For example, if "The Alliance of Santa Monica Latino and Black Voters" were a legitimate organization, I certainly would have encountered that organization at some point in the nearly six years I have worked to vindicate the voting rights of

Latinos in Santa Monica. But, I had never heard of “The Alliance of Santa Monica Latino and Black Voters.”

3. Suspecting that some of these purported organizations may have been conjured up by Mr. Harding and Mr. Pertel, I searched the California Secretary of State, California Attorney General, Internal Revenue Service, and Los Angeles County websites to locate these purported organizations. Based on my queries, it appears that two of those purported organizations have never existed, and one other is not in good standing with the California Secretary of State.

4. Between June 9, 2021 and July 1, 2021, I ran several queries through the California Secretary of State business search portal, the California Department of Justice’s Registry of Charitable Trusts, the Internal Revenue Service’s list of tax exempt organizations, and the Los Angeles County Registrar-Recorder / County Clerk’s fictitious business name search portal. Specifically, I searched for:

- i) any entities named “The Alliance of Santa Monica Latino and Black Voters”;
- ii) any entities named “Human Relations Council Santa Monica Bay Area”
- iii) any entities named “Community for Excellent Public Schools.”

5. No entities with any of these names were found through the California Secretary of State business search portal, the California Department of Justice’s Registry of Charitable Trusts, the Internal Revenue Service’s list of tax exempt organizations, or the Los Angeles County Registrar-Recorder / County Clerk’s fictitious business name search portal. True and correct copies of the

screenshots showing the results of these queries are attached collectively as **Exhibit A**.

6. Recognizing that it might be that one or more of these purported organizations were merely misnamed on the amicus brief, I also performed several additional queries. For example, I searched these same sources for any entities located in Santa Monica that include any of the following phrases: (i) “Community”; (ii) “Black and Latino”; (iii) “Alliance” and (iv) “Human Relations.” I still was unable to find any entities that could possibly be misnamed as “The Alliance of Santa Monica Latino and Black Voters” or “Community for Excellent Public Schools.” I was able to find an entity named “Santa Monica Bay Area Human Relations Council,” however that entity is not in good standing and appears to have been suspended by the Franchise Tax Board. A true and correct copy of the corresponding screenshot from the California Secretary of State website is attached as **Exhibit B**.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on July 8, 2021 in Malibu, California.



Kevin Shenkman

Exhibit A

[HELP](#)[MENU](#)

[Home](#) > [Charities and Non-Profits](#) > [Search for Charities](#) > Tax Exempt Organization Search

Results for Tax Exempt Organization Search

Select Database

Search All



Search By

Organization Name



Search Term

community for excellent public schools

City

Enter City

State

All States



Country

United States



Search

Reset

[Search Tips](#)

- **Your search did not return any results. Please try again.**

Need Help? See [Search Tips](#) for guidance on effective searching, search criteria and logic, and selecting search terms.

Additional information

- [Frequently asked questions - Exempt Organizations Select Check](#)
- [Revocations of 501\(c\)\(3\) Determinations](#)
- [Suspensions Pursuant to Code Section 501\(p\)](#)
- [Exempt Organizations Business Master File Extract \(EO BMF\)](#): a list of organizations recognized as exempt by the IRS
- [Tax Exempt Organization Search: Bulk Data Downloads](#)

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Civil Rights

Freedom of Information Act

No Fear Act

Resolve an Issue

Respond to a Notice

Independent Office of Appeals

Identity Theft Protection

Report Phishing

Tax Fraud & Abuse

Other Languages

Español

中文 (简体)

中文 (繁體)

한국어

Русский

Tiếng Việt

Kreyòl ayisyen

English

Other Languages

Related Sites

U.S. Treasury

Treasury Inspector General for Tax Administration

USA.gov

[HELP](#)[MENU](#)

[Home](#) > [Charities and Non-Profits](#) > [Search for Charities](#) > Tax Exempt Organization Search

Results for Tax Exempt Organization Search

Select Database

Search All



Search By

Organization Name



Search Term

human relations council santa monica bay area

City

Enter City

State

All States



Country

United States



Search

Reset

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- **Your search did not return any results. Please try again.**

Need Help? See [Search Tips](#) for guidance on effective searching, search criteria and logic, and selecting search terms.

Additional information

- [Frequently asked questions - Exempt Organizations Select Check](#)
- [Revocations of 501\(c\)\(3\) Determinations](#)
- [Suspensions Pursuant to Code Section 501\(p\)](#)
- [Exempt Organizations Business Master File Extract \(EO BMF\)](#): a list of organizations recognized as exempt by the IRS
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Related Sites

U.S. Treasury

Treasury Inspector General for Tax Administration

USA.gov

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[Home](#) > [Charities and Non-Profits](#) > [Search for Charities](#) > Tax Exempt Organization Search

Results for Tax Exempt Organization Search

Select Database

Search All



Search By

Organization Name



Search Term

alliance of santa monica latino and black voters

City

Enter City

State

All States



Country

United States



Search

Reset

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Work at IRS	Taxpayer Advocate Service	Independent Office of Appeals	中文 (简体)	Treasury Inspector General for Tax Administration
Help		Identity Theft Protection	中文 (繁體)	
Contact Your Local Office	Civil Rights		한국어	USA.gov
Tax Stats, Facts & Figures	Freedom of Information Act	Report Phishing	Русский	
	No Fear Act	Tax Fraud & Abuse	Tiếng Việt	
			Kreyòl ayisyen	
			English	
			Other Languages	

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You may search filed Fictitious Business Names using the search tool below. Fictitious Business Names expire 5 years from the date filed.

Enter Information

Business Name: *

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No matching result was found

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You may search filed Fictitious Business Names using the search tool below. Fictitious Business Names expire 5 years from the date filed.

Enter Information

Business Name: *

human relations council santa monica bay area



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Current Elections	Voter Registration	Birth Records	Marriage Licenses & Ceremonies
Fictitious Business Names	Marriage Records	Real Estate Records	Election Resources
Voting Options & Information	Register to Vote	Vote by Mail	Registration Status
Find Your District/Precinct Map Books	Find Your Vote Center	Become an Election Worker	Voting Solutions for All People



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Current Elections	Voter Registration	Birth Records	Marriage Licenses & Ceremonies
Fictitious Business Names	Marriage Records	Real Estate Records	Election Resources
Voting Options & Information	Register to Vote	Vote by Mail	Registration Status
Find Your District/Precinct Map Books	Find Your Vote Center	Become an Election Worker	Voting Solutions for All People



Business Search - Results

The California Business Search is updated daily and reflects work processed through Tuesday, June 15, 2021. Please refer to document [Processing Times](#) for the received dates of filings currently being processed. The data provided is not a complete or certified record of an entity.

- Select an entity name below to view additional information. Results are listed alphabetically in ascending order by entity name, or you can select a column title to change the sort order.
- To refine the search results, enter a word or a string of words in the "Narrow search results" box. The "Narrow search results" will search on all fields of the initial search results.
- For information on checking or reserving a name, refer to [Name Availability](#).
- For information on requesting a more extensive search, refer to [Information Requests](#).
- For help with searching an entity name, refer to [Search Tips](#).
- For descriptions of the various fields and status types, refer to [Frequently Asked Questions](#).

Results of search for Corporation Name keyword "community for excellent public schools" returned 0 entity records (out of 0 records found).

Show entities per page

Narrow search results:

Entity Number	Registration Date	Status	Entity Name	Jurisdiction	Agent for Service of Process
↕	↕	↕	↕	↕	↕
No matching entities found					

Showing 0 to 0 of 0 entities

[Previous](#)

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Business Search - Results

The California Business Search is updated daily and reflects work processed through Tuesday, June 15, 2021. Please refer to document [Processing Times](#) for the received dates of filings currently being processed. The data provided is not a complete or certified record of an entity.

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- For descriptions of the various fields and status types, refer to [Frequently Asked Questions](#).

Results of search for Corporation Name keyword "the alliance of santa monica latino and black voters" returned 0 entity records (out of 0 records found).

Show entities per page

Narrow search results:

Entity Number	Registration Date	Status	Entity Name	Jurisdiction	Agent for Service of Process
↕	↕	↕	↕	↕	↕
No matching entities found					

Showing 0 to 0 of 0 entities

[Previous](#)

[Next](#)

[Modify Search](#)

[New Search](#)

SERVICE DISRUPTION - Site will be unavailable intermittently on Thursday June 17, 2021 between 1:00 AM and 6:00 AM

Click on the Organization Name for details about the registration or report record. The maximum number of records shown per page is 50. If there are multiple pages of the results, the clickable page numbers will be displayed at the bottom. If you get too many results or do not find the organization for which you are searching, click the '**Search**' button and change the search criteria. It is best to search by something that is as unique to the organization as possible such as State Charity Registration Number, FEIN, S Corporate Number, or an unusual portion of their name. To see all registration and report records associated with an organization, avoid searching by State Charity Registration Number as that is record-specific.

Search Again

ORGANIZATION NAME	RECORD TYPE	REGISTRY STATUS	RCT NUMBER	FEIN	CITY
1					

SERVICE DISRUPTION - Site will be unavailable intermittently on Thursday June 17, 2021 between 1:00 AM and 6:00 AM

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Search Again

ORGANIZATION NAME	RECORD TYPE	REGISTRY STATUS	RCT NUMBER	FEIN	CITY
1					

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Search Again

ORGANIZATION NAME	RECORD TYPE	REGISTRY STATUS	RCT NUMBER	FEIN	CITY
1					

Exhibit B

Business Search - Entity Detail

The California Business Search is updated daily and reflects work processed through Tuesday, June 15, 2021. Please refer to document [Processing Times](#) for the received dates of filings currently being processed. The data provided is not a complete or certified record of an entity. Not all images are available online.

C2670331 SANTA MONICA BAY AREA HUMAN RELATIONS COUNCIL

Registration Date:	08/11/2004
Jurisdiction:	CALIFORNIA
Entity Type:	DOMESTIC NONPROFIT
Status:	FTB SUSPENDED
Agent for Service of Process:	PERRY ROSHAN-ZAMIR 2530 WILSHIRE BLVD., THIRD FLOOR SANTA MONICA CA 90403
Entity Address:	2530 WILSHIRE BLVD., THIRD FLOOR SANTA MONICA CA 90403
Entity Mailing Address:	P.O. BOX 1307 SANTA MONICA CA 90406

This entity is not eligible for online records requests. To order a Certificate of Status, please complete and return the [Business Entities Records Order Form](#)

Document Type	↕	File Date	↕	PDF
SI-COMPLETE		04/23/2021		
SI-COMPLETE		08/30/2018		
REGISTRATION		08/11/2004		

* Indicates the information is not contained in the California Secretary of State's database.

- If the status of the corporation is "Surrender," the agent for service of process is automatically revoked. Please refer to California Corporations Code [section 2114](#) for information relating to service upon corporations that have surrendered.
- For information on checking or reserving a name, refer to [Name Availability](#).
- If the image is not available online, for information on ordering a copy refer to [Information Requests](#).
- For information on ordering certificates, status reports, certified copies of documents and copies of documents not currently available in the Business Search or to request a more extensive search for records, refer to [Information Requests](#).
- For help with searching an entity name, refer to [Search Tips](#).
- For descriptions of the various fields and status types, refer to [Frequently Asked Questions](#).

Modify Search

New Search

Back to Search Results

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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**

1. At the time of service I was at least 18 years of age and not a party to this legal action.

2. My email address used to e-serve: **Kishenkman@shenkmanhughes.com**

3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

Filing Type	Document Title
MOTION	Motion by Plaintiff-Respondents to Strike Amicus Curiae Brief of League of Women Voters of Santa Monica, et al. in Support of Defendant-Appellant City of Santa Monica

Service Recipients:

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Dale Galipo Law Offices of 144074	dalekgalipo@yahoo.com	e-Serve	7/8/2021 10:47:33 AM
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Kenneth Weatherwax Lowenstein & Weatherwax LLP 218612	weatherwax@lowensteinweatherwax.com	e-Serve	7/8/2021 10:47:33 AM
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Steve Reyes California Secretary of State	sreyes@sos.ca.gov	e-Serve	7/8/2021 10:47:33 AM

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Ira Feinberg Hogan Lovells US LLP	imfeinberg@hhlaw.com	e-Serve	7/8/2021 10:47:33 AM
File Clerk Goldstein,Borgen,Dardarian, Ho	efile@gbdhlegal.com	e-Serve	7/8/2021 10:47:33 AM
Robert Rubin Law Offices of Robert Rubin 085084	robertrubinsf@gmail.com	e-Serve	7/8/2021 10:47:33 AM
Joseph Pertel The Law Office of Joseph Pertel	jpertel@yahoo.com	e-Serve	7/8/2021 10:47:33 AM
Attorney Attorney General - Los Angeles Office Court Added	docketinglaawt@doj.ca.gov	e-Serve	7/8/2021 10:47:33 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.

7/8/2021

Date

/s/Stuart Kirkpatrick

Signature

Shenkman, Kevin (223315)

Last Name, First Name (PNum)

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