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 BRUCE WESSEL

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

Morris J. Baller, Of Counsel (SBN 048928)
mballer@gbdhlegal.com
Laura L. Ho (SBN 173179)
lho@gbdhlegal.com
Anne P. Bellows (SBN 293722)
abellows@gbdhlegal.com
Ginger L. Grimes (SBN 307168)
ggrimes@gbdhlegal.com
GOLDSTEIN, BORGEN, DARDARIAN & HO
155 Grand Avenue, Suite 900
Oakland, CA 94612
Tel: (510) 763-9800 | Fax: (510) 835-1417

Kevin I. Shenkman (SBN 223315)
kshenkman@shenkmanhughes.com
Mary R. Hughes (SBN 222662)
mrhughes@shenkmanhughes.com
Andrea A. Alarcon (SBN319536)
aalarcon@shenkmanhughes.com
SHENKMAN & HUGHES
28905 Wright Road
Malibu, CA 90265
Tel: (310) 457-0970

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

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

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

Attorneys for Plaintiffs-Respondents Pico Neighborhood Association and Maria Loya

TABLE OF CONTENTS

Page(s)

TABLE OF AUTHORITIES

Page(s)

California Cases

Federal Cases

California Statutes

Federal Statutes

Other Authorities

I. INTRODUCTION

The U.S. Supreme Court's jurisprudence regarding racial gerrymandering is, as Amicus Bruce Wessel ("Amicus") asserts, important. But, it is not important to the disposition of this case, nor to the question certified for review by this Court.

In this case, the unrebutted evidence supports the trial court's finding that race was not the predominant factor in developing the district map ultimately adopted by the trial court as an appropriate remedy under Section 14029 of the California Voting Rights Act ("CVRA"). Defendant has never challenged that finding, nor could it. Therefore, there can be no doubt that district map is not a racial gerrymander. This case, therefore, presents no more opportunity to address questions on the proper role of race in drawing district maps than any of the hundreds of other district maps drawn by the State of California and its political subdivisions following every decennial Census.

Beyond its general discussion of claims of racial gerrymandering, Amicus' brief mischaracterizes the trial court's decision and the law concerning racially polarized voting. The trial court recognized a pattern over the course of more than two decades of elections – "In most elections where the choice is available, Latino voters strongly prefer a Latino candidate running for Defendant's city council." (24AA10680.) Based on

that pattern, the trial court properly focused on those Latino candidates who Latino voters preferred. (24AA10682-10689.) With only one exception, which the trial court explained was an unusual election, those candidates all lost. (24AA10686-10689; 24AA10700.) As the trial court explained, that is exactly what the U.S. Supreme Court described as addressing each facet of legally significant racially polarized voting – "Latino voters favor Latino candidates, but non-Latino voters vote against those candidates, and therefore the favored candidates of the Latino community lose." (24AA10688-10689; citing *Thornburg v. Gingles* (1986) 478 U.S. 30, 58–61 ["We conclude that the District Court's approach, which tested data derived from three election years in each district, and which revealed that blacks strongly supported black candidates, while, to the black candidates' usual detriment, whites rarely did, satisfactorily addresses each facet of the proper legal standard."].) The racially polarized voting cases from lower federal courts cited by Amicus do not compel a different result. Indeed, the rule that Defendant suggests (and Amicus seems to agree with) – that there is no racially polarized voting if a minority community has elected its second-, third-, or even fourth-choice – would do violence to the purpose of the CVRA.

II. THE DISTRICT MAP ADOPTED BY THE TRIAL COURT IS NOT A RACIAL GERRYMANDER.

Amicus is correct that the analysis of a district map, to determine whether it is an unconstitutional racial gerrymander, is a two-part test. First, the district map and any other available evidence is evaluated to determine whether "race was the predominant factor motivating" the precise location of district lines. (*Lee v. City of Los Angeles* (9th Cir. 2018) 908 F.3d 1175, 1182, quoting *Bethune-Hill v. Va. State Bd. of Elections* (2017) 137 S.Ct. 788.) The burden on this first factor falls on the party challenging the district map. (*Id*.) If race was not the predominant factor, but merely one of many factors, the district map is not an unconstitutional racial gerrymander. (*Id*.) Second, if, and only if, race was the predominant factor in fixing the location of district lines, then the district map must serve a compelling interest to withstand scrutiny. (*Id*.) In this case, the trial court correctly found that race was not the predominant factor motivating the location of district lines by Plaintiffs' expert, David Ely. (24AA10733.) And, the trial court also correctly found that, even if it had been, the district map serves a compelling interest, and thus would withstand even strict scrutiny. (24AA10711-10713.) Defendant has not challenged those findings.

A. The Trial Court Correctly Found Race Was Not the Predominant Factor In Drawing the District Map In This Case.

At trial, David Ely, a respected demographer with decades of

experience drawing district maps, described the process and considerations he employed in crafting the district map that was ultimately adopted by the trial court. (RT2314:7-2315:24; RT2330:17-2331:27).

Mr. Ely first described his process for drawing the Pico Neighborhood district. He "look[ed] at the overall community … to draw a district that has the appropriate population for a single member district, to capture the area in which [he had] identified a series of characteristics, socioeconomic, demographic characteristics." (RT2314:16-23.) He followed "topological" boundaries like streets and freeways so the boundaries of the district are "recognizable." (RT2314:24-2325:8.) He accounted for "community of interest [which] often relates to socioeconomic characteristics, like income, education levels and those kind of things." (RT2315:11-16)

Mr. Ely then described his process for drawing the remaining districts. He talked to residents and toured Santa Monica's neighborhoods. (RT2330:17-22.) Then, he drew the remaining districts to "correspond largely with the organization of neighborhoods in the city." (RT2331:1-3.) For example, "District two is pretty much the Sunset Park neighborhood[, and] District seven is pretty much the [] Ocean Park neighborhood." (RT2331:15-17.) The map that resulted "is consistent with … communities of interest" and "all of the districts are [] pretty compact and [] easily

recognizable" – "well within the norms [of Mr. Ely's many years'] experience of drawing districts." (RT2331:21-27.)

The map drawn by Mr. Ely was the only one presented to the trial court. Though Defendant had several opportunities to do so – both at trial and when the trial court invited the parties to further brief the selection of appropriate remedies (22AA9966-9967; 24AA10735-10736), Defendant declined to develop or present any map at all. (24AA10733-10736.) With Defendant waiving any remedial submission, the court found the district map designed by Mr. Ely to be legal and appropriate. (24AA10733-10737; 24AA10739; RT9938-9939.) Specific to the role of race in the location of district lines, the trial court confirmed what Mr. Ely had testified, and Defendant never disputed – the location of district lines "was not based predominantly on race – the district map was drawn based on the non-racial criteria enumerated in Elections Code section 21620." (24AA10708.) The trial court elaborated on the considerations that resulted in that district map:

> At trial, only one district plan was presented to the Court – Trial Exhibit 261. That plan was developed by David Ely, following the criteria mandated by Section 21620 of the Elections Code, applicable to charter cities. The populations of the proposed districts are all within 10% of one another; areas with similar demographics (e.g. socio-economic status) are grouped together where possible and the historic neighborhoods of Santa Monica are intact to the extent possible; natural boundaries such as main roads and existing

> precinct boundaries are used to divide the districts where possible; and neither race nor the residences of incumbents was a predominant factor in drawing any of the districts.

(24AA10733.) The criteria enumerated in Section 21620 are, of course, all non-racial.

A visual inspection of the district map adopted by the trial court in this case (attached hereto as Appendix A) confirms Mr. Ely's description of his process and considerations, particularly when compared with the districts at issue in some of the cases cited in Mr. Wessel's amicus brief (attached hereto as Appendices B and C). The two districts ruled unconstitutional in *Cooper v. Harris* (2017) 137 S.Ct. 1455 are bizarrely-shaped by any standard. (See Appendix B). Whenever an election district is so bizarrely-shaped, it's likely that some inappropriate, or at least non-traditional, criteria dominated the crafting of that district. (Compare *Shaw v. Reno* (1993) 509 U.S. 630, 644 [strict scrutiny applies to district map "that is so bizarre on its face that it is unexplainable on grounds other than race"] and *Wright v. Rockefeller* (1964) 376 U.S. 52 [affirming district court's finding that challenged congressional district, while somewhat irregularly shaped, was not so bizarrely shaped to presume that race was the predominant consideration].) In contrast, the district map in this case (Appendix A) consists of regularly-shaped districts generally bounded by main thoroughfares, the Pacific Ocean and the city's boundaries – reflecting

the drafter's attempt, consistent with the traditional districting criteria enumerated in section 21620 of the Elections Code, to follow the boundaries of Santa Monica's recognized neighborhoods. (See *Lee*, 908 F.3d at 1185 ["This is a far cry from the cases in which the Supreme Court found the shape of voting districts to be indicative of racial considerations on their face."], contrasting *Bush v. Vera* (1996) 517 U.S. 952, 965–66 [describing a "compact, albeit irregularly shaped, core" with "narrow and bizarrely shaped tentacles . . . extending primarily to the north and west"]; *Miller v. Johnson* (1995) 515 U.S. 900, 908–09 [describing a "sparsely populated rural core" connected by "narrow corridors" to "four discrete, widely spaced urban centers"]; *Shaw*, 509 U.S. at 635–36 [describing two districts, one with a "hook shape[]" with "finger-like extensions" and another that winds "in snakelike fashion" to encompass African American neighborhoods].). The minor deviations from those main thoroughfares and recognized neighborhood boundaries reflected in the district map are due to the need to have generally equal populations in each district. (See *Reynolds v. Sims* (1964) 377 U.S. 533 [election districts with widely differing populations violate the Equal Protection Clause].) The district map adopted in this case is nothing like what the U.S. Supreme Court found unconstitutional in *Cooper* and other cases. (Compare Appendix A and Appendix B.) In fact, the district map adopted in this case is even more regular than the district map that the Ninth Circuit Court of Appeals upheld

in *Lee*. (Compare Appendix A and Appendix C.)

Neither Defendant nor Amicus contends that race was the predominant factor in drawing the district map in *this* case. Amicus does however contend that race must have been a factor because the trial court considered the Latino proportion of the remedial Pico Neighborhood district in assessing whether it would improve Latino voters' ability to elect candidates of their choice or influence the outcome of elections. But Amicus misunderstands the process. The trial court did not draw the district map; that was done by Mr. Ely who, as discussed above, described his process and considerations. That the trial court considered the minority proportion of the remedial Pico Neighborhood district after it had already been drawn does not mean that race was a factor in drawing that district, much less the predominant factor. (Cf. *Lee*, 908 F.3d at 1183-1184 [rejecting claim of racial gerrymandering where evidence of racial consideration involved only two individuals, not the whole of the legislative body responsible for crafting and adopting the district map].)

In this case, and most others, drawing districts based on traditional non-racial districting criteria results in a district that has a substantially greater minority proportion than the city as a whole. That is very different than setting a specific target for the minority proportion of a remedial district and then drawing districts with the overriding purpose of drawing a district with that target minority proportion. (Cf. *Texas Dept. of Housing &*

Community Affairs v. Inclusive Communities Project, Inc. (2015) 135 S.Ct. 2507, 2524 [Strict scrutiny does not apply to measures designed "to eliminate racial disparities through race-neutral means."]; see also *Bush v. Vera* (1996) 517 U.S. 952, 958 ["Strict scrutiny does not apply merely because redistricting is performed with consciousness of race."].) And, because the CVRA, unlike the federal Voting Rights Act ("FVRA"), does not require any particular minority proportion in a remedial district, the CVRA does not compel courts, or plaintiffs' experts, to draw districts with the goal of reaching any arbitrary minority proportion in a remedial district – such as the majority or near-majority level proposed by Defendant-Appellant in this case.

In any event, regardless of whether race was considered at all in the development of the remedial map, race was certainly not the predominant factor in fixing the location of any district lines. No party contends otherwise. The inquiry therefore, ends here: the remedial map is not an unconstitutional racial gerrymander.

B. The Trial Court Correctly Found the District Map Serves a Compelling Interest.

The trial court also determined that the CVRA, and its specific application in this case, including the remedial district map the trial court adopted, serve a compelling interest. (24AA10709-10713; 24AA10734-10735.) The U.S. Supreme Court has consistently recognized that

remedying vote dilution, as the remedial map in this case does, is a compelling interest that satisfies even strict scrutiny. (See, e.g., *Bethune-Hill v. Va. State Bd. of Elections* (2017) 137 S.Ct. 788, 802; *League of United Latin Am. Citizens v. Perry* (2006) 548 U.S. 399, 475 & n.12 (Stevens, J., joined by Breyer, J., concurring in part and dissenting in part); *id*. at p. 518–19 (Scalia, J., joined by Thomas, J., Alito, J., and Roberts, C.J., concurring in the judgment in part and dissenting in part); *Bush v. Vera* (1996) 517 U.S. 952, 990, 994 (O'Connor, J., concurring); *Shaw v. Reno* (1993) 509 U.S. 630, 653-654.)

In *Jauregui v. City of Palmdale* (2014) 226 Cal.App.4th 781, the court explained that the CVRA, like the FVRA, combats vote dilution and protects the integrity of the electoral process, and those are important statewide concerns. (*Jauregui*, 226 Cal.App.4th at 800-801.) The same logic the *Jauregui* court applied to determining that the CVRA is narrowly tailored to addressing a statewide concern, and therefore applies to charter cities just like all other political subdivisions, also establishes that the CVRA serves a compelling interest that satisfies strict scrutiny. Because the vote dilution the CVRA is designed to combat was established in this case (see 24AA10677-10707), and the map adopted by the trial court will remedy that vote dilution (see 24AA10734-10735), that remedial map likewise serves a compelling interest.

III. AMICUS MISCHARACTERIZES THE TRIAL COURT'S RACIALLY POLARIZED VOTING ANALYSIS.

While not particularly relevant to Amicus' discussion about racial gerrymandering, his mischaracterization of the trial court's racially polarized voting analysis, and the law concerning racially polarized voting more generally, must be corrected. Specifically, Amicus argues the trial court erred in focusing on Latino candidates most preferred by the Latino electorate. (Amicus Brief, at pp. 21-22). But that focus was not error; it was justified by both the law and the facts of this case.

The CVRA requires that the racially polarized voting analysis of a defendant's elections be based on "results of elections in which at least one candidate is a member of a protected class," and specifically indicates that an important consideration is "the extent to which candidates who are members of a protected class and who are preferred by voters of the protected class … have been elected to the governing body of a political subdivision that is the subject of an action." (Elec. Code, § 14028 subd. (b).) Federal courts addressing FVRA claims likewise focus on elections involving minority candidates. (See, e.g., *U.S. v. Blaine County* (9th Cir. 2004) 363 F.3d 897, 911 [rejecting defendant's argument that trial court must give weight to elections involving no minority candidates]; *Ruiz v. City of Santa Maria* (9th Cir. 1998) 160 F.3d 543, 553-554 ["minority vs. non-minority election is more probative of racially polarized voting than a

non-minority vs. non-minority election" because "[t]he Act means more than securing minority voters' opportunity to elect whites."]; *LULAC v. Clements* (5th Cir. en banc 1993) 999 F.2d 831, 864.) In fact, the only elections considered by the U.S. Supreme Court in *Gingles*, were those involving a minority candidate, and the group voting estimates for only those minority candidates were provided. (*Gingles*, 478 U.S. at 80, appen. A.)

The focus on Latino candidates is particularly appropriate here because, as the trial court noted, there is "a consistent pattern" – "where the choice is available, Latino voters strongly prefer a Latino candidate running for Defendant's city council." (24AA10680.) Countless FVRA cases have relied on the comparison of minority and majority levels of support for the minority candidates established as the preferred candidates of the minority community to find racially polarized voting—just as the trial court did in this case. (24AA10682-10689; see, e.g., *Campos v. Baytown* (5th Cir. 1988) 840 F.2d 1240, 1248-1249 [finding racially polarized voting based on differing levels of support for minority candidates from minority and white voters, respectively]; *Gomez v. City of Watsonville* (9th Cir. 1988) 863 F.2d 1407, 1416-1417 [same]; *Teague v. Attala County* (5th Cir. 1996) 92 F.3d 283, 291 [describing evidence of differing levels of support for black candidates from white and black voters, respectively, as "overwhelming evidence of racial polarization"]; *Garza v. County of Los*

Angeles (C.D. Cal. 1990) 756 F.Supp. 1298, 1335-1337, affd. (9th Cir. 1990) 918 F.2d 763 [summarizing the bases on which the court found RPV: "the results of the ecological regression analyses demonstrated that for all elections analyzed, Hispanic voters generally preferred Hispanic candidates over non-Hispanic candidates .... Of the elections analyzed by plaintiffs' experts non-Hispanic voters provided majority support for the Hispanic candidates in only three elections"].)

For Latino voters in Santa Monica, the CVRA ensures they have a fair opportunity to elect those Latino candidates they most prefer. Even the less protective FVRA requires as much. (See *Ruiz*, 160 F.3d at 553-554 ["the Act's guarantee of equal opportunity is not met when ... [c]andidates favored by [minorities] can win, but only if the candidates are white .... The defeat of Hispanic-preferred Hispanic candidates, however, is more probative of racially polarized voting and is entitled to more evidentiary weight."]; see also *Citizens for a Better Gretna v. City of Gretna* (5th Cir. 1987) 834 F.2d 496, 502 ["That blacks also support white candidates acceptable to the majority does not negate instances in which white votes defeat a black preference [for a black candidate]."]; *Smith v. Clinton*, (E.D. Ark. 1988) 687 F.Supp. 1310, 1318, affd. 488 U.S. 988 [it is not enough to avoid liability under the FVRA that "[c]andidates favored by blacks can win, but only if the candidates are white."]; *Jenkins v. Red Clay Consolidated School Dist. Bd.* (3d Cir. 1993) 4 F.3d 1103, 1128-1129.)

A. The Trial Court Correctly Found the 2016 Election Is Consistent With Racially Polarized Voting.

Amicus takes particular aim at the trial court's analysis of the 2016 election. The trial court described what the evidence demonstrated about the 2016 election:

> [I]n 2016, a race for four city council positions, Oscar de la Torre—a Latino resident of the Pico Neighborhood—was heavily favored by Latinos, but lost. In 2016, Mr. de la Torre received more support from Latinos than did Mr. Vazquez.

(24AA10688). The evidence adduced at trial – from both sides' experts – supports the trial court's description. Using bivariate unweighted ecological regression, Defendant's expert estimated de la Torre received support from 93% of Latino voters, while Vazquez received 57%. (RA196.) Using multivariate unweighted ecological regression, the estimates were a bit closer - that de la Torre received support from 87% of Latino voters, with Vazquez receiving 67% (RA203), and the estimates using multivariate weighted ecological regression were similar – that de la Torre received support from 87% of Latino voters to Vazquez's 65% (RA209). Plaintiff's expert estimated, using multivariate weighted ecological regression, that de la Torre received support from 88% of Latino voters, while Vazquez received 78% (RA75), and estimated using multivariate unweighted ecological regression that de la Torre received support from 90% of Latino voters, while Vazquez received 72% (RA74).

Taken together, the statistical analyses of both sides' experts demonstrate exactly what the trial court found: "Mr. de la Torre received more support from Latinos than did Mr. Vazquez" (24AA10688) – 10 to 36% more, depending on the statistical method used to estimate group voting behavior.

Amicus argues the order of preference of Latino voters – most heavily supporting Mr. de la Torre, with Mr. Vazquez being their second choice by every statistical method – is immaterial. According to Amicus, the trial court should have treated the victory of Latino voters' second-choice candidate as cancelling out the loss by Latino voters' first-choice candidate. But the overwhelming weight of authority disagrees with Amicus' view – even the very case upon which Amicus relies – *Ruiz v. City of Santa Maria* (9th Cir. 1998) 160 F.3d 543.

In *Ruiz*, the Ninth Circuit rejected the district court's "mechanical approach" that viewed the victory of a candidate who was the second-choice of Latinos in a multi-seat race as undermining a finding of racially polarized voting where Latinos' first choice was a Latino candidate who lost. The Ninth Circuit explained:

> The defeat of Hispanic-preferred Hispanic candidates, however, is more probative of racially polarized voting and is entitled to more evidentiary weight. The district court should also consider the order of preference non-Hispanics and Hispanics assigned Hispanic-preferred Hispanic candidates as well as the order of overall finish of these candidates

(*Id*. at 554.) The *Ruiz* court may have labeled second-choice candidates in a two-seat race as "minority-preferred," but that label alone had little meaning in the final analysis, which the *Ruiz* court confirmed should focus on the candidate most preferred by minority voters in each election, particularly where that candidate most preferred by minority voters is a member of the minority group. (*Id*.) That analysis by the Ninth Circuit in *Ruiz* echoed what the Eleventh Circuit had held in *Meek v. Metropolitan Dade County* (11th Cir. 1990) 908 F.2d 1540:

> *Gingles* addresses not only a group's ability to elect a satisfactory candidate (that is, a candidate for whom the minority voter is willing to cast a vote), but the group's ability to elect its preferred candidate

(*Id*. 1547.) To interpret the CVRA more restrictively than federal courts have interpreted the FVRA, to afford a minority community the opportunity to elect only a satisfactory candidate not its preferred candidate, would do violence to the purpose of the CVRA – remedying what the Legislature considered "restrictive interpretations given to the federal act." (Assem. Com. on Judiciary, Analysis of Sen. Bill No. 976 (2001-2002 Reg. Sess.) as amended Apr. 9, 2002, p. 2.; see also *Jauregui*, 226 Cal.App.4th at 806-807 [In enacting the CVRA, "[t]he Legislature intended to provide a broader basis for relief from vote dilution than available under the federal Voting Rights Act."]) The trial court explained all of that in its Statement of

Decision, but Amicus, just like Defendant, fails to rebut the trial court's explanation. (24AA10697-10700.)

Indeed, courts addressing elections almost identical to that of the 2016 election in this case have held that only the top-choice of minority voters should be regarded as "minority-preferred." For example, in *Collins v. City of Norfolk* (4th Cir. 1989) 883 F.2d 1232, the appellate court reversed the district court's identification of a candidate as black-preferred when that candidate was estimated to have received 15% less support from black voters than the black candidate who received the most black votes. (*Collins*, *supra*, 883 F.2d at 1238.) Likewise, in *Harper v. City of Chicago Heights* (N.D. Ill. 1993) 824 F.Supp. 786, the court refused to label an incumbent black candidate as black-preferred where she received 11% less support from black voters than another black candidate who was the top-choice of black voters. (*Id*. at 790-791.) As discussed above, in 2016, Mr. de la Torre received 10-36% greater support from Latino voters than did the incumbent Latino councilmember, Tony Vazquez. (RA74-75; RA196; RA203, RA209.) In that circumstance, there is a "presumption" that Mr. Vazquez – the second-choice of Latino voters – is not "minority-preferred," and neither Defendant nor Amicus has done anything to rebut that presumption. (*Collins*, 883 F.2d at 1238.) Mr. de la Torre, the Latino-preferred candidate, lost. (24AA10688.)

Ultimately, Defendant's city council elections fit exactly what the U.S. Supreme Court described as addressing each facet of legally significant racially polarized voting – "Latino voters favor Latino candidates, but non-Latino voters vote against those candidates, and therefore the favored candidates of the Latino community lose." (24AA10688-10689; citing *Thornburg v. Gingles* (1986) 478 U.S. 30, 58–61 ["We conclude that the District Court's approach, which tested data derived from three election years in each district, and which revealed that blacks strongly supported black candidates, while, to the black candidates' usual detriment, whites rarely did, satisfactorily addresses each facet of the proper legal standard."].)

IV. CONCLUSION

The district map adopted by the trial court is not a racial gerrymander. It is a reflection of Santa Monica's distinct neighborhoods, and it will remedy the vote dilution the Latino community has long suffered.

DATED: August 11, 2021

Respectfully submitted,

SHENKMAN & HUGHES

/s/ Kevin Shenkman
Kevin Shenkman

Attorneys for Plaintiffs-Respondents Pico Neighborhood Association and Maria Loya

CERTIFICATE OF WORD COUNT

(Cal. Rules of Court, rules 8.2024(c)(1).)

I, the undersigned appellate counsel, certify that this brief consists of 4,029 words exclusive of those portions of the brief specified in California Rules of Court, rule 8.204(c)(3), relying on the word count of the Microsoft Word 2016 computer program used to prepare the brief.

Dated: August 11, 2021

Respectfully submitted,

SHENKMAN & HUGHES

/s/ Kevin Shenkman
Kevin Shenkman

Attorneys for Petitioners, Pico Neighborhood Association, *et al.* (Respondents in the Court of Appeal)

Exhibit A

EX.261-1

Exhibit B

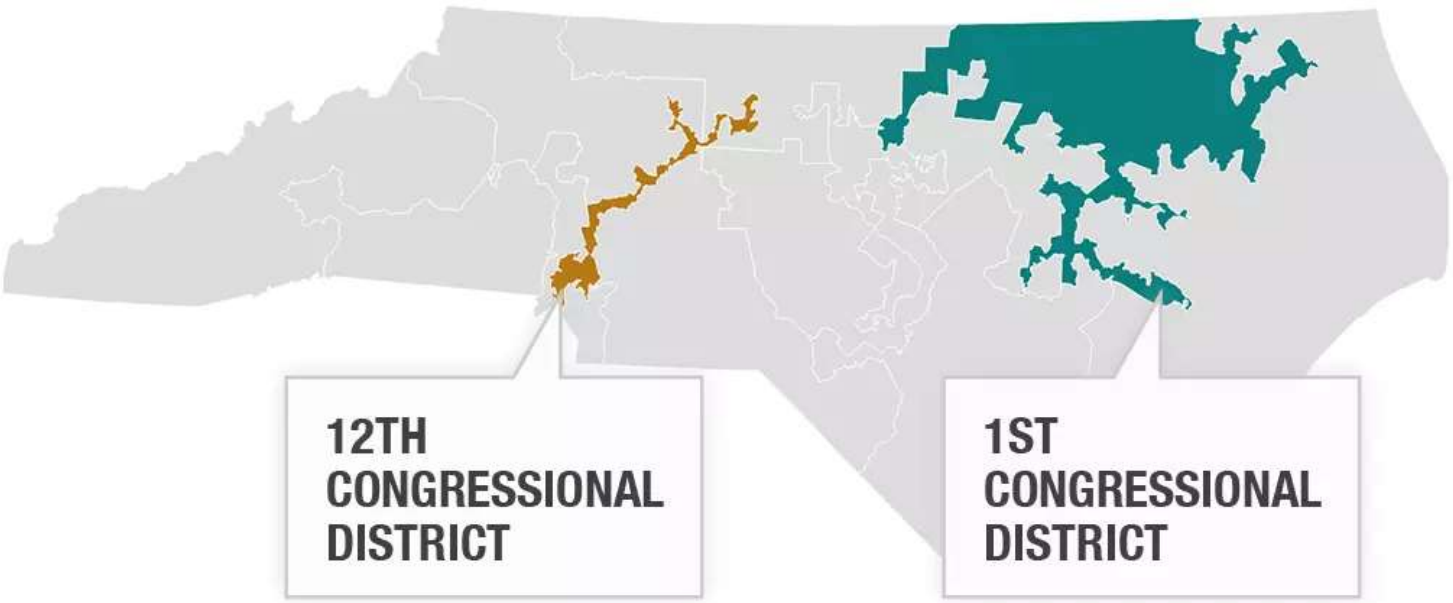
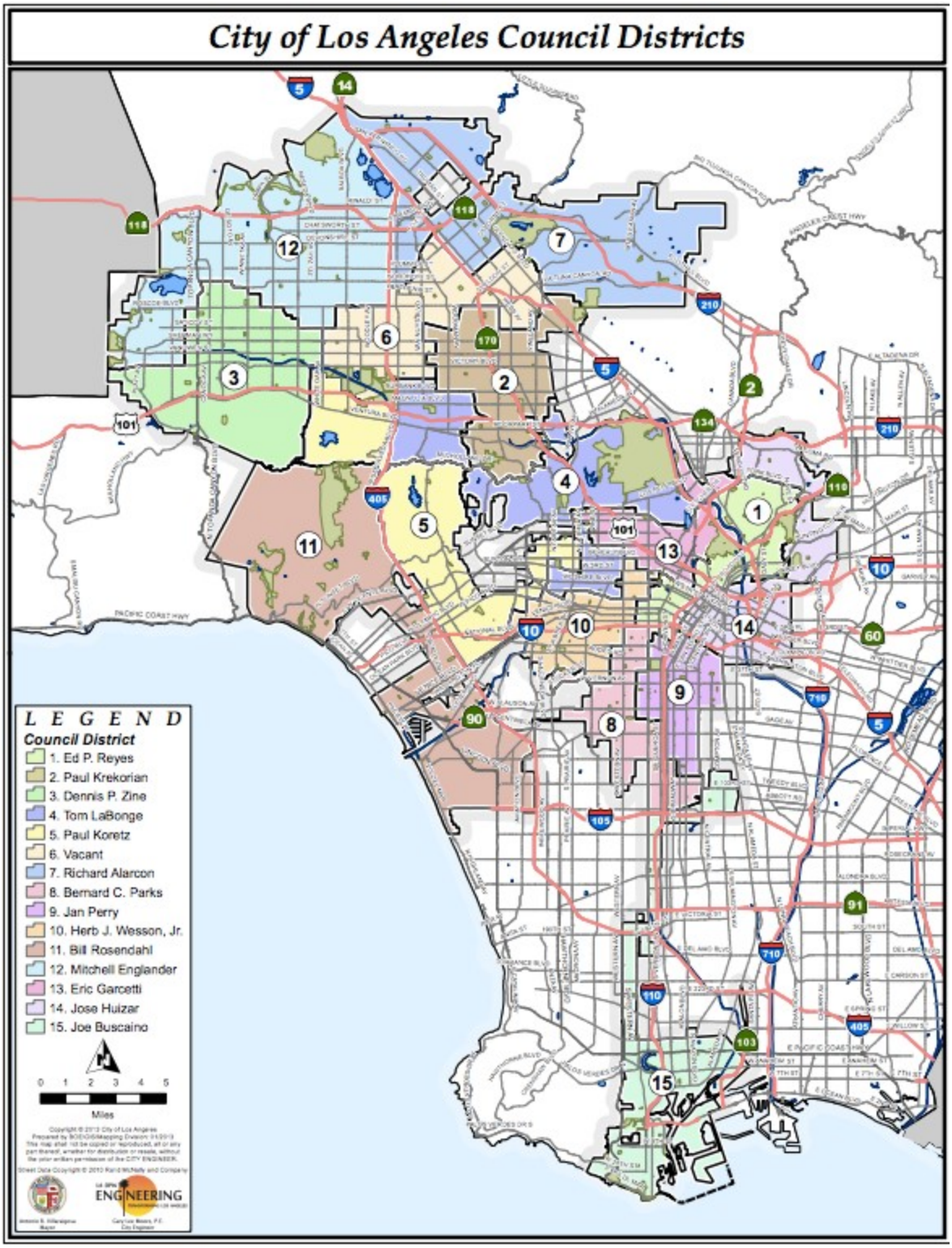

12TH
CONGRESSIONAL
DISTRICT
1ST
CONGRESSIONAL
DISTRICT

Exhibit C

City of Los Angeles Council Districts



PROOF OF SERVICE

I am a citizen of the United States, am over the age of 18 years, and not a party to the within entitled action. My business address is 155 Grand Avenue, Suite 900, Oakland, CA 94612. I declare that on the date hereof I served the following documents:

PLAINTIFFS AND RESPONDENTS PICO NEIGHBORHOOD ASSOCIATION AND MARIA LOYA'S RESPONSE TO THE AMICUS CURIAE BRIEF OF BRUCE WESSEL

☒ **By Electronic Service:** Based on a court order or an agreement of the parties to accept electronic service, I caused the documents to be sent to the persons at the electronic service address(es) as set forth below

Via Electronic Filing/Submission:
(Via electronic submission through the TrueFiling web page at www.truefiling.com)

Appellant's Counsel

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

Amici's Counsel

NATHAN LOWENSTEIN, ESQ. (SBN 241067)
KENNETH J. WEATHERWAX, ESQ. (SBN 218612)
lowenstein@lowensteinweatherwax.com
weatherwax@lowensteinweatherwax.com
LOWENSTEIN & WEATHERWAX LLP
1880 Century Park East, Suite 815
Los Angeles, California 90067
Tele: (310) 307-4500

☒ BY U.S. MAIL: By placing a true copy of the document(s) listed above for collection and mailing following the firm's ordinary business practice in a sealed envelope with postage thereon fully prepaid for deposit in the United States mail at Oakland, California addressed as set forth below.

TRIAL COURT
HON. YVETTE M. PALAZUELOS
Judge Presiding
Los Angeles County Superior Court
312 North Spring Street
Los Angeles, CA 90012
Telephone: (213) 310-7009

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on this 11th day of August 2021, at Oakland, California.

Stuart Kirkpatrick

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**

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
BRIEF	Response to Bruce Wessel Amicus brief

Service Recipients:

Person Served	Email Address	Type	Date / Time
Kevin Shenkman Shenkman & Hughes	kshenkman@shenkmanhughes.com	e-Serve	8/11/2021 4:39:17 PM
Kevin Shenkman Shenkman & Hughes 223315	Kishenkman@shenkmanhughes.com	e-Serve	8/11/2021 4:39:17 PM
Theodore Boutrous Gibson Dunn & Crutcher, LLP 132099	tboutrous@gibsondunn.com	e-Serve	8/11/2021 4:39:17 PM
Dale Galipo Law Offices of 144074	dalekgalipo@yahoo.com	e-Serve	8/11/2021 4:39:17 PM
Connie Sung Keker Van Nest and Peters LLP 304242	csung@keker.com	e-Serve	8/11/2021 4:39:17 PM
Kristin Liska Office of the Attorney General 315994	Kristin.Liska@doj.ca.gov	e-Serve	8/11/2021 4:39:17 PM
Kenneth Weatherwax Lowenstein & Weatherwax LLP 218612	weatherwax@lowensteinweatherwax.com	e-Serve	8/11/2021 4:39:17 PM
Derek Cole Cole Huber LLP 204250	dcole@colehuber.com	e-Serve	8/11/2021 4:39:17 PM
Steve Reyes California Secretary of State 212849	sreyes@sos.ca.gov	e-Serve	8/11/2021 4:39:17 PM
Ellery Gordon	egordon@parrislawyers.com	e-	8/11/2021

Parris Law Firm 316655		Serve	4:39:17 PM
Scott Grimes Goldstein,Borgen,Dardarian, Ho	sgrimes@gbdhlegal.com	e-Serve	8/11/2021 4:39:17 PM
Scott Rafferty Law Offices of Scott Rafferty 224389	rafferty@gmail.com	e-Serve	8/11/2021 4:39:17 PM
Douglas Mirell GREENBERG GLUSKER FIELDS CLAMAN & MACHTINGER LLP	dmirell@ggfirm.com	e-Serve	8/11/2021 4:39:17 PM
R. Parris R. Rex Parris Law Firm	rrparris@rrexparris.com	e-Serve	8/11/2021 4:39:17 PM
Anne Bellows Goldstein, Borgen, Dardarian & Ho 293722	abellows@gbdhlegal.com	e-Serve	8/11/2021 4:39:17 PM
Todd Bonder Rosenfeld Meyer & Susman LLP 116482	tbonder@rmslaw.com	e-Serve	8/11/2021 4:39:17 PM
Ira Feinberg Hogan Lovells US LLP	imfeinberg@hhlaw.com	e-Serve	8/11/2021 4:39:17 PM
File Clerk Goldstein,Borgen,Dardarian, Ho	efile@gbdhlegal.com	e-Serve	8/11/2021 4:39:17 PM
Robert Rubin Law Offices of Robert Rubin 085084	robertrubinsf@gmail.com	e-Serve	8/11/2021 4:39:17 PM
Joseph Pertel The Law Office of Joseph Pertel	jpertel@yahoo.com	e-Serve	8/11/2021 4:39:17 PM
Office Office Of The State Attorney General Court Added	docketinglaawt@doj.ca.gov	e-Serve	8/11/2021 4:39:17 PM
John Haggerty Court Added	johnkhaggerty@yahoo.com	e-Serve	8/11/2021 4:39:17 PM
Julia Marks Asian Americans Advancing Justice - Asian Law Caucus 300544	juliam@advancingjustice-alc.org	e-Serve	8/11/2021 4:39:17 PM
Helen Dilg Office of the City Attorney	lane.dilg@smgov.net	e-Serve	8/11/2021 4:39:17 PM
R. Lauridsen Keker, Van Nest & Peters LLP 243780	alauridsen@keker.com	e-Serve	8/11/2021 4:39:17 PM
Laura Ho Goldstein,Borgen,Dardarian, Ho 173179	lho@gbdhlegal.com	e-Serve	8/11/2021 4:39:17 PM
Dan Stormer	dstormer@hadsellstormer.com	e-	8/11/2021

Hadsell Stormer Renick & Dai LLP 101967		Serve	4:39:17 PM
Sonni Waknin UCLA Voting Rights Project 335337	sonni@uclavrp.org	e-Serve	8/11/2021 4:39:17 PM
Ira Feinberg Hogan Lovells US LLP 64066	ira.feinberg@hoganlovells.com	e-Serve	8/11/2021 4:39:17 PM
Elisa DellaPIana Lawyers' Committee for Civil Rights of the SF Bay Area 226462	edellapiana@lccrsf.org	e-Serve	8/11/2021 4:39:17 PM
Morris Baller Goldstein, Borgen, Dardarian & Ho 48928	mballer@gbdhlegal.com	e-Serve	8/11/2021 4:39:17 PM
Stuart Kirkpatrick Goldstein, Borgen, Dardarian & Ho	skirkpatrick@gbdhlegal.com	e-Serve	8/11/2021 4:39:17 PM
Michelle Mabugat Greenberg Glusker LLP 280292	mmabugat@ggfirm.com	e-Serve	8/11/2021 4:39:17 PM
Nathan Lowenstein Lowenstein & Weatherwax LLP	lowenstein@lowensteinweatherwax.com	e-Serve	8/11/2021 4:39:17 PM
Vanessa Jordan CA Department of Justice, Office of the Attorney General	Vanessa.Jordan@doj.ca.gov	e-Serve	8/11/2021 4:39:17 PM
Milton Grimes Law Offices of Milton C. Grimes 59437	miltgrim@aol.com	e-Serve	8/11/2021 4:39:17 PM
Belinda Helzer Mexican American Legal Defense and Educational Fund 214178	bescobosahelzer@gmail.com	e-Serve	8/11/2021 4:39:17 PM
Christian Contreras Guizar, Henderson & Carrazco, LLP 330269	christian@carrazcolawapc.com	e-Serve	8/11/2021 4:39:17 PM
Christopher Harding Attorney at Law 76681	harding@hlkklaw.com	e-Serve	8/11/2021 4:39:17 PM
Joanna Ghosh Lawyers for Justice 272479	joanna@lfjpc.com	e-Serve	8/11/2021 4:39:17 PM
Daniel Adler Gibson Dunn & Crutcher LLP 306924	dadler@gibsondunn.com	e-Serve	8/11/2021 4:39:17 PM
George Cardona	george.cardona@smgov.net	e-Serve	8/11/2021 4:39:17 PM
Marcellus A. McRae	mmcrae@gibsondunn.com	e-Serve	8/11/2021 4:39:17 PM
Kahn A. Scolnick	kscolnick@gibsondunn.com	e-	8/11/2021

228686		Serve	4:39:17 PM
Tiaunia N. Henry 254323	thenry@gibsondunn.com	e-Serve	8/11/2021 4:39:17 PM

This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

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

8/11/2021

Date

/s/Stuart Kirkpatrick

Signature

Shenkman, Kevin (223315)

Last Name, First Name (PNum)

Shenkman & Hughes

Law Firm