

No. S263972

In the

Supreme Court

of the

State of California

Pico Neighborhood Association, *et al.*,
Plaintiffs and Petitioners,

v.

City of Santa Monica,
Defendant and Respondent,

**PETITIONERS' OPPOSITION TO RESPONDENT CITY OF
SANTA MONICA'S APPLICATION FOR LEAVE TO FILE REPLY
IN SUPPORT OF ITS MOTION FOR JUDICIAL NOTICE**

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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As Defendant City of Santa Monica concedes, this Court's rules do not provide for the submission of reply briefs in support of motions. On the contrary, Rule 8.54 contemplates that an opposition is the last paper filed concerning a motion and so a decision may be rendered any time after an opposition is filed or the time for opposing the motion has elapsed. (Cal. R. Ct. 8.54(a) and (b)(1).) Nor did this Court request a reply from Defendant regarding its motion for judicial notice. Nonetheless, Defendant seeks to file a lengthy reply in support of its flawed motion for judicial notice.

With nothing in this Court's rules to support the filing of its reply, Defendant turns to a "practice guide" that indicates that reply briefs may be permitted if there is "good cause." But Defendant then fails to point to any good cause for allowing it to file a reply. Rather, Defendant argues only that good cause exists because Plaintiffs made several arguments in their opposition to which Defendant would like to respond. That cannot constitute "good cause," because that would permit every moving party to file a reply in support of every disputed motion, rendering any "good cause" requirement meaningless. There simply is no good cause here to allow Defendant to file its reply.

Its proposed reply further demonstrates the lack of good cause. The proposed reply does little to actually respond to Petitioners' opposition, and certainly does not establish the "exceptional circumstances" that could justify this Court considering post-judgment events. (*In re Zeth S.* (2003))

31 Cal.4th 396, 405-406; see also *Cal. Sch. Bds. Ass'n v. State of Cal.* (2011) 192 Cal.App.4th 770, 803.) Rather, the proposed reply mischaracterizes Petitioners' positions in this case more generally, argues the merits of the appeal, and disputes the factual findings of the trial court. That is hardly an appropriate purpose for any moving papers, let alone a reply brief that is not authorized or contemplated by this Court's rules.

For all the reasons above, Defendant's application for leave to file a reply in support of its motion should be denied.

Dated: April 14, 2021

Respectfully submitted,

SHENKMAN & HUGHES

 /s/Kevin Shenkman
Kevin Shenkman
Attorneys for Petitioners

STATE OF CALIFORNIA
Supreme Court of California

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Supreme Court of California

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Case Number: **S263972**

Lower Court Case Number: **B295935**

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Date

/s/Stuart Kirkpatrick

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