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 14 CITY OF SANTA MONICA

*Exempt from filing fee pursuant to  
 Government Code § 6103*

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
 16 **FOR THE COUNTY OF LOS ANGELES**

17 OSCAR DE LA TORRE and ELIAS SERNA,  
 18  
 19 Plaintiffs,  
 20 v.  
 21 CITY OF SANTA MONICA,  
 22 and DOES 1 through 10, inclusive  
 23 Defendants.

CASE NO.: 21STCV08597

Assigned to Hon. Richard L. Fruin

**DEFENDANT CITY OF SANTA  
 MONICA’S REQUEST FOR JUDICIAL  
 NOTICE IN SUPPORT OF MOTION  
 FOR SUMMARY JUDGMENT OR, IN  
 THE ALTERNATIVE, SUMMARY  
 ADJUDICATION**

Date: May 6, 2022  
 Time: 9:15 A.M.  
 Dept.: 15

Action Filed: March 4, 2021  
 Trial Date: May 16, 2022

1 Pursuant to Section 430.30, subdivision (a) of the Code of Civil Procedure, Evidence Code  
2 sections 415, 452, and 453, and Rules 3.1113, subdivision (l), and 3.1306, subdivision (c) of the  
3 California Rules of Court, Defendant City of Santa Monica (“City”) respectfully requests that the  
4 Court take judicial notice of the following documents in support of the City’s Motion for Summary  
5 Judgment or, in the Alternative, Summary Adjudication:

6 A. Santa Monica City Charter Section 605, a true and correct copy of which is attached  
7 hereto as Exhibit A. The document is also publicly available at  
8 [https://qcode.us/codes/santamonica/?view=desktop&topic=the charter of the city of santa monica](https://qcode.us/codes/santamonica/?view=desktop&topic=the%20charter%20of%20the%20city%20of%20santa%20monica-vi-605)  
9 [-vi-605](https://qcode.us/codes/santamonica/?view=desktop&topic=the%20charter%20of%20the%20city%20of%20santa%20monica-vi-605);

10 B. Complaint in *Pico Neighborhood Association and Maria Loya v. City of Santa*  
11 *Monica*, Case No. BC616804 (L.A. Super. Ct. Apr. 12, 2016). The complaint is a record of the  
12 Superior Court of California, and a true and correct copy is attached hereto as Exhibit B;

13 C. First Amended Complaint in *Pico Neighborhood Association and Maria Loya v. City*  
14 *of Santa Monica*, Case No. BC616804 (L.A. Super. Ct. Feb. 23, 2017). The First Amended  
15 Complaint is a record of the Superior Court of California, and a true and correct copy is attached  
16 hereto as Exhibit C;

17 D. Notice of Motion and Motion for an Award of Attorneys’ Fees and Expenses;  
18 Memorandum of Points and Authorities filed by Plaintiffs in *Pico Neighborhood Association and*  
19 *Maria Loya v. City of Santa Monica*, Case No. BC616804. The motion is a record of the Superior  
20 Court of California, and a true and correct copy is attached hereto as Exhibit D;

21 E. Stipulation and [Proposed] Order Regarding (1) Plaintiffs’ Memorandum of Costs; (2)  
22 Defendant’s Motion to Strike/Tax Memorandum of Costs; and (3) Plaintiffs’ Motion for Attorneys’  
23 Fees filed in *Pico Neighborhood Association and Maria Loya v. City of Santa Monica*, Case No.  
24 BC616804. The stipulation is a record of the Superior Court of California, and a true and correct copy  
25 is attached hereto as Exhibit E; and

26 F. October 21, 2020 Grant of Review by the Supreme Court of California in *Pico*  
27 *Neighborhood Association and Maria Loya v. City of Santa Monica*, Case No. BC616804, S263972.  
28

1 The grant of review is a record of the Supreme Court of California, and a true and correct copy is  
2 attached hereto as Exhibit F.

3 Pursuant to Evidence Code section 453, a “trial court shall take judicial notice of any matter  
4 specified in Section 452 if a party requests it and: (a) [g]ives each adverse party sufficient notice ...  
5 and (b) [f]urnishes the court with sufficient information to enable it to take judicial notice of the  
6 matter.” (Evid. Code, § 453.) Section 452, subdivision (d), authorizes the Court to take judicial  
7 notice of “[r]ecords” of “any court of this state.” (Evid. Code, § 452, subd. (d).) Applying this  
8 standard, courts have routinely taken judicial notice of pleadings, other filings, transcripts of prior  
9 proceedings, and deposition testimony. (See, e.g., *Gilman v. Dalby* (2021) 61 Cal.App.5th 923, 929  
10 [taking judicial notice of “several filings from [plaintiff]’s’ related suit against Appellants”]; *Brown*  
11 *v. TGS Management Company, LLC* (2020) 57 Cal.App.5th 303, 308 [taking judicial notice of  
12 transcripts from arbitration proceeding]; *Hart v. Darwish* (2017) 12 Cal.App.5th 218, 224 [“minute  
13 orders and transcripts are ‘[r]ecords’ of a ‘court of this state’”]; *Tucker v. Pacific Bell Mobile*  
14 *Services* (2012) 208 Cal.App.4th 201, 219 [“The pleadings and declarations are records of a court of  
15 this state and therefore qualified for permissive judicial notice under Evidence Code section 452,  
16 subdivision (d).”]; *Joslin v. H.A.S. Ins. Brokerage* (1986) 184 Cal.App.3d 369, 375 [taking judicial  
17 notice of deposition testimony].) As pleadings and filings in other proceedings, this Court may take  
18 judicial notice of Exhibits B to F.

19 In addition, Section 452, subdivision (b), authorizes the Court to take judicial notice of a  
20 public entity’s “[r]egulations and legislative enactments.” (Evid. Code, § 452, subd. (b); see also  
21 Evid. Code, § 200 [defining “public entity” to include local city governments and other public  
22 agencies].) Courts thus “may take notice of local ordinances and the official resolutions, reports, and  
23 other official acts of a city.” (*Trinity Park, L.P. v. City of Sunnyvale* (2011) 193 Cal.App.4th 1014,  
24 1027, *overruled on others grounds, Sterling Park, L.P. v. City of Palo Alto* (2013) 57 Cal.4th 1193;  
25 see also *Save Lafayette v. City of Lafayette* (2018) 20 Cal.App.5th 657, 662 fn.1 [granting request for  
26 judicial notice of city’s public records, including local ordinances, legislative enactments, and staff  
27 reports].) Exhibit A is subject to judicial notice for this reason.

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In addition, Section 452, subdivision (h) provides that any “[f]acts ... that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy” are properly the subject of judicial notice. (Evid. Code, § 452, subd. (h); see, e.g., *Performance Plastering v. Richmond American Homes of California, Inc.* (2007) 153 Cal.App.4th 659, 670 [taking judicial notice of transcript of settlement conference because “there is and can be no factual dispute concerning the contents of the transcript”].) The contents of each of the proffered exhibits are not reasonably subject to dispute and therefore may be judicially noticed for this reason too.

For the foregoing reasons, the City requests that the Court take judicial notice of Exhibits A through F in ruling on the City’s Motion for Summary Judgment or, in the Alternative, Summary Adjudication.

Dated: February 12, 2022

Respectfully submitted,

By:                   /s/ Carol M. Silberberg                    
Carol M. Silberberg

Attorneys for Defendant  
CITY OF SANTA MONICA

**Index to Exhibits**

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F	October 21, 2020 Grant of Review by the Supreme Court of California in <i>Pico Neighborhood Association and Maria Loya v. City of Santa Monica</i> , Case No. BC616804, S263972	71

# Exhibit A

Santa Monica Municipal Code						
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<a href="#">THE CHARTER OF THE CITY OF SANTA MONICA</a> <a href="#">ARTICLE VI—THE CITY COUNCIL</a>						

**605. Power vested in the City Council.**

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All powers of the City shall be vested in the City Council, subject to the provisions of this Charter and to the Constitution of the State of California.

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View the [mobile version](#).

# Exhibit B



ALCOOS  
90401

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**FILED**  
Superior Court of California  
County of Los Angeles

APR 12 2016

Sherri R. Carter, Executive Officer/Clerk  
By *[Signature]*, Deputy  
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15 Attorneys for Plaintiffs

*D20 Yvete Palazuelos*

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF LOS ANGELES BC 6 1 6 8 0 4**

19 PICO NEIGHBORHOOD  
20 ASSOCIATION, MARIA LOYA and  
21 ADVOCATES FOR MALIBU PUBLIC  
22 SCHOOLS

Plaintiff,

v.

23 CITY OF SANTA MONICA,  
24 CALIFORNIA; and DOES 1-100,  
25 inclusive,

Defendants.

Case No.:  
**COMPLAINT FOR VIOLATION OF:**  
1) **CALIFORNIA VOTING RIGHTS ACT OF 2001; and**  
2) **EQUAL PROTECTION CLAUSE OF CALIFORNIA CONSTITUTION**

CIT/CASE: BC616804  
LEA/DEF #:  
RECEIPT #: CCHES9179031  
DATE PAID: 04/12/16 11:04 AM  
AMOUNT: \$435.00  
RECEIVED: 310  
CHECK: \$0.00  
CASH: \$0.00  
CHANGE: \$0.00  
CARD: \$435.00

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1 COMES NOW Plaintiffs Pico Neighborhood Association (hereinafter "PNA"), Maria Loya  
2 (hereinafter "Loya") and Advocates for Malibu Public Schools (hereinafter "AMPS")  
3 (collectively "Plaintiffs"), and allege as follows:

4 **NATURE OF THE ACTION**

5 1. This action is brought by Plaintiffs for injunctive relief against the City of Santa  
6 Monica, California, for its violation of the California Voting Rights Act of 2001 (hereinafter  
7 the "CVRA"), Cal. Elec. Code §§ 14025, et seq., and for declaratory relief that the provision  
8 of the Santa Monica City Charter requiring the at-large election of its city council as well as  
9 the governing board of the Santa Monica Malibu Unified School District ("SMMUSD") is  
10 unconstitutional. The previous system of district-based elections was abandoned and at-large  
11 elections were adopted in 1946, purposefully to prevent non-Anglo Santa Monicans residing  
12 primarily around and south of what is now Interstate 10 from achieving representation in their  
13 local governments. Since that time, at-large elections have been very successful in achieving  
14 that purpose -- the imposition of the City of Santa Monica's at-large method of election has  
15 accomplished its nefarious purpose -- dilution of Latino voting power and denial of effective  
16 political participation in elections to the Santa Monica City Council. The City of Santa  
17 Monica's at-large method of election for electing members to its City Council prevents Latino  
18 residents from electing candidates of their choice or influencing the outcome of Santa  
19 Monica's City Council elections.

20 2. The effects of the City of Santa Monica's at-large method of election are  
21 apparent and compelling. Since the adoption of at-large elections in the City of Santa Monica  
22 sixty years ago, only one Latino has been elected to the City Council, and not a single Latino  
23 resident of the Pico Neighborhood, where Latinos are concentrated, has been elected to the  
24 Santa Monica city council. Latino residents of the Pico Neighborhood, including Ms. Loya,  
25 have run in several recent elections for the Santa Monica city council, and though they have  
26 been preferred by both voters in the Pico Neighborhood and by Latino voters generally, they  
27 have all lost due to the costly and discriminatory at-large system by which Santa Monica  
28

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1 elects its city council. Rather, those Latino candidates preferred by the Latino electorate were  
2 all defeated by the bloc voting of the non-Latino electorate.

3 3. Santa Monica's at-large method of election violates the CVRA. Plaintiffs bring  
4 this action to enjoin the City of Santa Monica's continued abridgment of Latino voting rights.  
5 Plaintiffs seek a declaration from this Court that the at-large method of election currently  
6 used by the City of Santa Monica violates the CVRA. Plaintiffs seek injunctive relief  
7 enjoining the City of Santa Monica from further imposing or applying its current at-large  
8 method of election. Further, Plaintiffs seek injunctive relief requiring the City of Santa  
9 Monica to implement district based elections or other alternative relief tailored to remedy  
10 Santa Monica's violation of the CVRA.

11 4. District elections were abandoned and at-large elections were adopted by Santa  
12 Monica with the purpose of discriminating against Santa Monica's ethnic minority population  
13 residing in the southern portion of the city. That fact alone – that the rejection of district  
14 elections and adoption of at-large elections were generally motivated by a desire to  
15 disenfranchise ethnic minorities – makes the at-large election system unconstitutional today.  
16 *See, e.g., Hunter v. Underwood*, 471 US 222 (1985) (invalidating a suffrage provision of the  
17 1901 Alabama Constitution Convention even though it was adopted 84 years earlier).  
18 Specifically, the provision in the Santa Monica City Charter requiring at-large elections for  
19 the city council and the SMMUSD governing board, not only runs afoul of the CVRA, it also  
20 runs afoul of the Equal Protection Clause (Article I, Section 7) of the California Constitution,  
21 among other controlling laws.

22 5. Plaintiffs attempted to avoid the need for litigation by engaging in a dialogue  
23 with the City of Santa Monica, through their counsel. Specifically, Plaintiffs, through their  
24 counsel, brought this CVRA violation to the attention of the City of Santa Monica through  
25 correspondence sent nearly four months prior to the filing of this Complaint. Despite that  
26 correspondence, the Santa Monica City Council has taken no action to end its violation of the  
27 CVRA, content to continue violating the CVRA and their constituents' voting rights by  
28 clinging to a relic of its racist past. In fact, other than an email from Santa Monica's city

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1 attorney on December 28, 2015 noting that the matter would be considered by the city council  
2 in closed session on January 12, 2016, and promising a substantive response thereafter,  
3 Defendant City of Santa Monica has not responded at all.

4 **PARTIES**

5 6. Established in 1979, PNA is a non-profit organization dedicated to improving  
6 the living conditions of residents of the Pico Neighborhood of Santa Monica, where Latino  
7 residents of Santa Monica are concentrated, and advocating for the interests of Pico  
8 Neighborhood residents to the Santa Monica City Council. PNA has dozens of members,  
9 including Latino registered voters residing in the City of Santa Monica.

10 7. AMPS, founded in 2010, is a non-profit organization dedicated to improving  
11 the public schools within the boundaries of the City of Malibu that are part of the SMMUSD.  
12 As part of those efforts, AMPS has advocated for district-based elections for SMMUSD,  
13 among other political subdivisions, so that every neighborhood has a voice in their local  
14 governing boards. But SMMUSD is not able to adopt district-based elections by petitioning  
15 the County Committee on School District Organization, like nearly 200 California school  
16 districts have done in just the last eight years, because the Santa Monica City Charter  
17 prescribes at-large elections for SMMUSD's governing board. AMPS has hundreds of  
18 members, including Latino registered voters residing in the City of Santa Monica.

19 8. The Latino residents of Santa Monica whose voting rights are immediately  
20 harmed by the City of Santa Monica's adherence to an unlawful at-large system of electing its  
21 city council are hindered from protecting their own interests. Many of the Latino citizens of  
22 Santa Monica do not recognize that their voting rights are being violated by the City of Santa  
23 Monica's adherence to an unlawful at-large system of electing its city council, and still others  
24 fear reprisal by the City of Santa Monica if they were to seek redress for the City of Santa  
25 Monica imposing its unlawful election system.

26 9. Despite that fear of reprisal, Maria Loya feels compelled to seek redress for the  
27 City of Santa Monica's violation of the CVRA and dilution of the Latino vote in Santa  
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1 Monica. Loya is a member of a “protected class” as that term is defined in the CVRA – she  
2 is Latina – and she is registered to vote and resides in the City of Santa Monica.

3 10. At all times herein mentioned, Defendant City of Santa Monica, California  
4 (hereinafter "Santa Monica") is and has been a political subdivision subject to the provisions  
5 of the CVRA.

6 11. Plaintiffs are unaware of the true names and capacities, whether individual,  
7 corporate, associate, or otherwise, of defendants sued herein as Does 1 through 100,  
8 inclusive, and therefore, sues said defendants by such fictitious names and will ask leave of  
9 court to amend this complaint to show their true names and capacities when the same have  
10 been ascertained. Plaintiffs are informed and believe and thereon allege that defendants Does  
11 1 through 100, inclusive, are responsible on the facts and theories herein alleged.

12 12. Does 1 through 100, inclusive, are Defendants that have caused Santa Monica  
13 to violate the CVRA, failed to prevent Santa Monica's violation of the CVRA, or are  
14 otherwise responsible for the acts and omissions alleged herein.

15 13. Plaintiffs are informed and believe and thereon allege that Defendants and each  
16 of them are in some manner legally responsible for the acts and omissions alleged herein, and  
17 actually and proximately caused and contributed to the various injuries and damages referred  
18 to herein.

19 14. Plaintiffs are informed and believe and thereon allege that at all times herein  
20 mentioned each of the Defendants was the agent, partner, predecessor in interest, successor in  
21 interest, and/or employee of one or more of the other Defendants, and were at all times herein  
22 mentioned acting within the course and scope of such agency and/or employment.

23  
24 **JURISDICTION AND VENUE**

25 15. All parties hereto are within the unlimited jurisdiction of this Court. The  
26 unlawful acts complained of occurred in Los Angeles County. Venue in this Court is proper.

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1 **FACTS**

2 16. The City of Santa Monica contains approximately 89,736 persons, of which  
3 approximately 13.1% are Hispanic or Latino, based upon the 2010 United States Census.

4 17. The City of Santa Monica is governed by a city council. The Santa Monica  
5 City Council serves as the governmental body responsible for the operations of the City of  
6 Santa Monica. The City Council is comprised of seven members, including a Mayor elected  
7 by and from the members of the City Council.

8 18. The Santa Monica City Council members are elected pursuant to an at-large  
9 method of election. Under this method of election, all of the eligible voters of the entire City  
10 of Santa Monica elect the members of the City Council.

11 19. Vacancies to the City Council are elected on a staggered basis; as a result, every  
12 two years the city electorate elects either three or four City Council members.

13 20. Upon information and belief, since adopting at-large elections in 1946, only one  
14 of Santa Monica's city council members has been Latino, and he was not a resident of the  
15 Latino-concentrated Pico Neighborhood.

16 21. Elections conducted within the City of Santa Monica are characterized by  
17 racially polarized voting. Racially polarized voting occurs when members of a protected  
18 class as defined by the CVRA, Cal. Elec. Code § 14025(d), vote for candidates and electoral  
19 choices that are different from the rest of the electorate. Racially polarized voting exists  
20 within the City of Santa Monica because there is a difference between the choice of  
21 candidates or other electoral choices that are preferred by Latino voters, and the choice of  
22 candidates or other electoral choices that are preferred by voters in the rest of the electorate,  
23 with the result being that Latino-preferred candidates usually lose.

24 22. Racially polarized voting is legally significant in Santa Monica's City Council  
25 elections because it dilutes the opportunity of Latino voters to elect candidates of their choice.

26 23. Patterns of racially polarized voting have the effect of impeding opportunities  
27 for Latino voters to elect candidates of their choice to the at-large city council positions in the  
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1 City of Santa Monica, where the non-Latino populace dominates elections. For several years,  
2 Latino voters have been harmed by racially polarized voting.

3 24. The at-large method of election and repeated racially polarized voting has  
4 caused Latino vote dilution within the City of Santa Monica. Where Latinos and the rest of  
5 the electorate express different preferences on candidates and other electoral choices, non-  
6 Latinos by virtue of their overall numerical majority among voters, defeat the preferences of  
7 Latino voters.

8 25. The obstacles posed by the City of Santa Monica's at-large method of election,  
9 together with racially polarized voting, impair the ability of people of certain races, color or  
10 language minority groups, such as Latino voters, to elect candidates of their choice or to  
11 influence the outcome of elections conducted in the City of Santa Monica.

12 26. An alternative method of election, such as, but not limited to, district-based  
13 elections, exists that will provide an opportunity for the members of the CVRA-protected  
14 classes to elect candidates of their choice or to influence the outcome of the Santa Monica  
15 City Council elections.

16 27. It is no accident that at-large elections have diluted the vote of ethnic minorities  
17 in elections for Santa Monica's city council – that was a significant motivation and purpose  
18 of adopting at-large elections, instead of the district-based elections previously employed in  
19 Santa Monica. At-large elections have long been well known to dilute minority vote. The  
20 electorate of Santa Monica understood well that minority vote dilution would be the result of  
21 at-large elections when it adopted at-large elections in 1946, a time of significant interracial  
22 tension in Santa Monica. In one advertisement, calling for the rejection of at-large elections  
23 in 1946, the "Anti-Charter Committee" decried:

24 **MINORITY GROUPS AND THE PROPOSED CHARTER**

25 The lot of a member of a minority group, whether it be in a location of  
26 not-so-fine homes, or one of race, creed or color, is never too happy  
27 under the best of conditions.  
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But consider what life would be like under a dictatorship type of government as proposed under the charter.

With seven councilmen elected AT LARGE (and history shows they will mostly originate from NORTH OF MONTANA), and a city manager responsible to the seven councilmen plus a dictatorship that has so long ruled Santa Monica (without regard to minorities) where will these people be?

The proposed ruling groups control the chief of police – and through him the police force – and the city attorney, the personnel director, the health officer, etc.

Where will the laboring man go? Where will the Jewish, colored or Mexican go for aid in his special problems?

Where will the resident of Ocean Park, Douglas district, the Lincoln-Pico and other districts go when he needs help?

The proposed charter is not fair – it is not democratic.

It is a power grab – and we plead with all citizens of Santa Monica to protect their interests (vote no) and convince your neighbors to vote NO ON THE PROPOSED CHARTER.

28. At-large elections have accomplished exactly what proponents hoped for – and opponents feared – in 1946: the dilution of the vote of racial and ethnic minorities, as well as the residents of less privileged neighborhoods in the southern portion of Santa Monica. That unlawful election system must not be allowed to stand, both because it was intended to disenfranchise minority voters when it was enacted, and because it has done exactly that and therefore violates the CVRA.

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1 **FIRST CAUSE OF ACTION**

2 **(Violation of California Voting Rights Act of 2001)**

3 **(Against All Defendants)**

4 29. Plaintiff incorporates by this reference paragraphs 1 through 28 as though fully  
5 set forth herein.

6 30. Defendant City of Santa Monica is a political subdivision within the State of  
7 California. Defendant is a charter city.

8 31. Defendant City of Santa Monica employs an at-large method of election, where  
9 voters of its entire jurisdiction elect members to its City Council.

10 32. Racially polarized voting has occurred, and continues to occur, in elections for  
11 members of the City Council for the City of Santa Monica and in elections incorporating  
12 other electoral choices by voters of the City of Santa Monica, California. As a result, the City  
13 of Santa Monica's at-large method of election is imposed in a manner that impairs the ability  
14 of protected classes as defined by the CVRA to elect candidates of their choice or influence  
15 the outcome of elections.

16 33. An alternative method of election, such as, but not limited to, district-based  
17 elections, exists that will provide an opportunity for Latinos to elect candidates of their choice  
18 or to influence the outcome of the Santa Monica City Council elections.

19 34. An actual controversy has arisen and now exists between the parties relating to  
20 the legal rights and duties of Plaintiffs and Defendants, for which Plaintiffs desire a  
21 declaration of rights.

22 35. Defendants' wrongful conduct has caused and, unless enjoined by this Court,  
23 will continue to cause, immediate and irreparable injury to Plaintiffs, and all residents of the  
24 City of Santa Monica.

25 36. Plaintiffs, and the residents of the City of Santa Monica, have no adequate  
26 remedy at law for the injuries they currently suffer and will otherwise continue to suffer.

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**SECOND CAUSE OF ACTION**  
**(Violation of California Equal Protection Clause)**  
**(Against All Defendants)**

37. Plaintiff incorporates by this reference paragraphs 1 through 37 as though fully set forth herein.

38. Defendant City of Santa Monica’s rejection of district-based elections and adoption of at-large elections were motivated by the desire to deny local government representation to racial and ethnic minorities.

39. As a direct consequence of the decades-old racially-motivated decisions to reject district-based elections and adopt at-large elections, Defendant City of Santa Monica still employs an at-large method of election, where voters of its entire jurisdiction elect members to its City Council.

40. Those intentionally discriminatory decisions are enshrined in what is now sections 600 and 900 of the Santa Monica City Charter.

41. Because the rejection of district-based elections and the adoption of at-large elections were motivated by a desire to discriminate against the non-Anglo residents of Santa Monica, those enactments - sections 600 and 900 of the Santa Monica City Charter – are invalid as they violate, among other laws, the Equal Protection Clause of the California Constitution (Article I Section 7).

42. An actual controversy has arisen and now exists between the parties relating to the legal rights and duties of Plaintiffs and Defendants, for which Plaintiffs desire a declaration of rights.

43. A declaration by this Court regarding the invalidity of Defendant’s at-large election system, and specifically sections 600 and 900 of the Santa Monica City Charter, is necessary to prevent Defendant from continuing to employ that intentionally-discriminatory election system, and to permit the elections of the Santa Monica Malibu Unified School District to be converted to district-based elections through a petition to the Los Angeles County Committee on School District Organization and the California Board of Education.

04/12/2016

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as follows:

1. For a decree that the City of Santa Monica's current at-large method of election for the City Council violates the California Voting Rights Act of 2001;

2. For a decree that the City of Santa Monica's current at-large method of election for the City Council, and specifically sections 600 and 900 of the Santa Monica City Charter, was adopted with the purpose of discriminating against, and denying effective representation to, non-Anglo residents of Santa Monica, and therefore those provisions are invalid.

3. For preliminary and permanent injunctive relief enjoining the City of Santa Monica from imposing or applying its current at-large method of election;

4. For injunctive relief mandating the City of Santa Monica to implement district-based elections, as defined by the California Voting Rights Act of 2001, or other alternative relief tailored to remedy the City of Santa Monica's violation of the California Voting Rights Act of 2001;

5. For an award of Plaintiffs' attorneys' fees, costs, litigation expenses and prejudgment interest pursuant to the CVRA, Cal. Elec. Code § 14030 and other applicable law; and

6. For such further relief as the Court deems just and proper.

Respectfully submitted:

DATED: April 11, 2016

**SHENKMAN & HUGHES,  
R. REX PARRIS LAW FIRM, and  
LAW OFFICES OF MILTON C. GRIMES  
LAW OFFICE OF ROBERT RUBIN**

By:

  
Kevin Shenkman  
Attorneys for Plaintiff

04/12/2016

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, Street number, and address):  
Kevin Shenkman (SBN 223315)  
Shenkman & Hughes PC  
28905 Wight Rd.  
Malibu, CA 90265  
TELEPHONE NO.: 310-457-0970 FAX NO.:  
ATTORNEY FOR (Name): Plaintiffs

FOR COURT USE ONLY

**FILED**  
Superior Court of California  
County of Los Angeles

APR 12 2016

Sherri R. Carter, Executive Officer/Clerk  
By Ishayla Chambers, Deputy

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles  
STREET ADDRESS: 110 N. Grand Ave.  
MAILING ADDRESS: 110 N. Grand Ave.  
CITY AND ZIP CODE: Los Angeles, CA 90012  
BRANCH NAME: Stanley Mosk Courthouse

CASE NAME:  
Pico Neighborhood Association, et al. v. City of Santa Monica, et al.

**CIVIL CASE COVER SHEET**  
 **Unlimited** (Amount demanded exceeds \$25,000)  
 **Limited** (Amount demanded is \$25,000 or less)

**Complex Case Designation**  
 **Counter**  **Joinder**  
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:  
**BC 6 1 6 8 0 4**

JUDGE:  
DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46)	<b>Contract</b> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37)	<b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</b> <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)
<b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23)	<b>Real Property</b> <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26)	<b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20)
<b>Non-PI/PD/WD (Other) Tort</b> <input type="checkbox"/> Business tort/unfair business practice (07) <input checked="" type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35)	<b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38)	<b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42)
<b>Employment</b> <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)

2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- a.  Large number of separately represented parties
  - b.  Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
  - c.  Substantial amount of documentary evidence
  - d.  Large number of witnesses
  - e.  Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
  - f.  Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a.  monetary b.  nonmonetary; declaratory or injunctive relief c.  punitive
4. Number of causes of action (specify): 2
5. This case  is  is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: April 11, 2016  
Kevin Shenkman  
(TYPE OR PRINT NAME)

  
(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

**INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET**

CM-010

**To Plaintiffs and Others Filing First Papers.** If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties in Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties in Complex Cases.** In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

**CASE TYPES AND EXAMPLES**

**Auto Tort**

- Auto (22)—Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

**Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort**

- Asbestos (04)
  - Asbestos Property Damage
  - Asbestos Personal Injury/Wrongful Death
- Product Liability *(not asbestos or toxic/environmental)* (24)
- Medical Malpractice (45)
  - Medical Malpractice—Physicians & Surgeons
  - Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
  - Premises Liability (e.g., slip and fall)
  - Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
  - Intentional Infliction of Emotional Distress
  - Negligent Infliction of Emotional Distress

**Non-PI/PD/WD (Other) Tort**

- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
  - Legal Malpractice
  - Other Professional Malpractice *(not medical or legal)*
- Other Non-PI/PD/WD Tort (35)

**Employment**

- Wrongful Termination (36)
- Other Employment (15)

**Contract**

- Breach of Contract/Warranty (06)
  - Breach of Rental/Lease
  - Contract *(not unlawful detainer or wrongful eviction)*
- Contract/Warranty Breach—Seller Plaintiff *(not fraud or negligence)*
- Negligent Breach of Contract/Warranty
- Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
  - Collection Case—Seller Plaintiff
  - Other Promissory Note/Collections Case
- Insurance Coverage *(not provisionally complex)* (18)
  - Auto Subrogation
  - Other Coverage
- Other Contract (37)
  - Contractual Fraud
  - Other Contract Dispute

**Real Property**

- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
  - Writ of Possession of Real Property
  - Mortgage Foreclosure
  - Quiet Title
  - Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

**Unlawful Detainer**

- Commercial (31)
- Residential (32)
- Drugs (38) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

**Judicial Review**

- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
  - Writ—Administrative Mandamus
  - Writ—Mandamus on Limited Court Case Matter
  - Writ—Other Limited Court Case Review
- Other Judicial Review (39)
  - Review of Health Officer Order
  - Notice of Appeal—Labor Commissioner Appeals

**Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)**

- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims *(arising from provisionally complex case type listed above)* (41)

**Enforcement of Judgment**

- Enforcement of Judgment (20)
  - Abstract of Judgment (Out of County)
  - Confession of Judgment *(non-domestic relations)*
  - Sister State Judgment
  - Administrative Agency Award *(not unpaid taxes)*
  - Petition/Certification of Entry of Judgment on Unpaid Taxes
  - Other Enforcement of Judgment Case

**Miscellaneous Civil Complaint**

- RICO (27)
- Other Complaint *(not specified above)* (42)
  - Declaratory Relief Only
  - Injunctive Relief Only *(non-harassment)*
  - Mechanics Lien
  - Other Commercial Complaint Case *(non-tort/non-complex)*
  - Other Civil Complaint *(non-tort/non-complex)*

**Miscellaneous Civil Petition**

- Partnership and Corporate Governance (21)
- Other Petition *(not specified above)* (43)
  - Civil Harassment
  - Workplace Violence
  - Elder/Dependent Adult Abuse
  - Election Contest
  - Petition for Name Change
  - Petition for Relief From Late Claim
  - Other Civil Petition

**CIVIL CASE COVER SHEET ADDENDUM AND  
STATEMENT OF LOCATION  
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to Local Rule 2.3 in all new civil case filings in the Los Angeles Superior Court.

**Step 1:** After completing the Civil Case Cover Sheet (Judicial Council form CM-010), find the exact case type in Column A that corresponds to the case type indicated in the Civil Case Cover Sheet.

**Step 2:** In Column B, check the box for the type of action that best describes the nature of the case.

**Step 3:** In Column C, circle the number which explains the reason for the court filing location you have chosen.

**Applicable Reasons for Choosing Court Filing Location (Column C)**

- |  |  |
|--|--|
| 1. Class actions must be filed in the Stanley Mosk Courthouse, Central District. | 7. Location where petitioner resides.  |
| 2. Permissive filing in central district.  | 8. Location wherein defendant/respondent functions wholly.   |
| 3. Location where cause of action arose.   | 9. Location where one or more of the parties reside.   |
| 4. Mandatory personal injury filing in North District.                           | 10. Location of Labor Commissioner Office.   |
| 5. Location where performance required or defendant resides.                     | 11. Mandatory filing location (Hub Cases – unlawful detainer, limited non-collection, limited collection, or personal injury). |
| 6. Location of property or permanently garaged vehicle.                          |  |

Auto Tort  
Other Personal Injury/Property Damage/Wrongful Death Tort  
04/12/2016

Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1, 4, 11
Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1, 4, 11
Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage	1, 11
	<input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	1, 11
Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1, 4, 11
Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons	1, 4, 11
	<input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1, 4, 11
Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall)	1, 4, 11
	<input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)	1, 4, 11
	<input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress	1, 4, 11
	<input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1, 4, 11

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Pico Neighborhood Association, et al. v. City of Santa Monica

CASE NUMBER

Non-Personal Injury/Property  
Damage/ Wrongful Death Tort

Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1, 2, 3
Civil Rights (08)	<input checked="" type="checkbox"/> A6005 Civil Rights/Discrimination	1, 2, 3
Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1, 2, 3
Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1, 2, 3
Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice	1, 2, 3
	<input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1, 2, 3
Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	1, 2, 3

Employment

Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1, 2, 3
Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case	1, 2, 3
	<input type="checkbox"/> A6109 Labor Commissioner Appeals	10

Contract

Breach of Contract/ Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)	2, 5
	<input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence)	2, 5
	<input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud)	1, 2, 5
	<input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	1, 2, 5
Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff	5, 6, 11
	<input type="checkbox"/> A6012 Other Promissory Note/Collections Case	5, 11
	<input type="checkbox"/> A6034 Collections Case-Purchased Debt (Charged Off Consumer Debt Purchased on or after January 1, 2014)	5, 6, 11
Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1, 2, 5, 8
Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud	1, 2, 3, 5
	<input type="checkbox"/> A6031 Tortious Interference	1, 2, 3, 5
	<input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1, 2, 3, 8, 9

Real Property

Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation      Number of parcels _____	2, 6
Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2, 6
Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure	2, 6
	<input type="checkbox"/> A6032 Quiet Title	2, 6
	<input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2, 6

Unlawful Detainer

Unlawful Detainer-Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	6, 11
Unlawful Detainer-Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	6, 11
Unlawful Detainer- Post-Foreclosure (34)	<input type="checkbox"/> A6020F Unlawful Detainer-Post-Foreclosure	2, 6, 11
Unlawful Detainer-Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2, 6, 11

SHORT TITLE:

Pico Neighborhood Association, et al. v. City of Santa Monica

CASE NUMBER

Judicial Review	Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2, 3, 6
	Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2, 5
	Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus	2, 8
		<input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter	2
<input type="checkbox"/> A6153 Writ - Other Limited Court Case Review		2	
Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2, 8	
Provisionally Complex Litigation	Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1, 2, 8
	Construction Defect (10)	<input type="checkbox"/> A6007 Construction Defect	1, 2, 3
	Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1, 2, 8
	Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1, 2, 8
	Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1, 2, 3, 8
	Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1, 2, 5, 8
Enforcement of Judgment	Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment	2, 5, 11
		<input type="checkbox"/> A6160 Abstract of Judgment	2, 6
		<input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations)	2, 9
		<input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes)	2, 8
		<input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax	2, 8
<input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2, 8, 9		
RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1, 2, 8	
Miscellaneous Civil Complaints	Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only	1, 2, 8
		<input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment)	2, 8
		<input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex)	1, 2, 8
		<input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1, 2, 8
Partnership Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2, 8	
Miscellaneous Civil Petitions	Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment	2, 3, 9
		<input type="checkbox"/> A6123 Workplace Harassment	2, 3, 9
		<input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case	2, 3, 9
		<input type="checkbox"/> A6190 Election Contest	2
		<input type="checkbox"/> A6110 Petition for Change of Name/Change of Gender	2, 7
		<input type="checkbox"/> A6170 Petition for Relief from Late Claim Law	2, 3, 8
		<input type="checkbox"/> A6100 Other Civil Petition	2, 9

9102/2/12/2016



SHORT TITLE:

Pico Neighborhood Association, et al. v. City of Santa Monica

CASE NUMBER

**Step 4: Statement of Reason and Address:** Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected. Enter the address which is the basis for the filing location, including zip code. (No address required for class action cases).

<b>REASON:</b> 1. <input checked="" type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10. <input type="checkbox"/> 11. <input type="checkbox"/>			<b>ADDRESS:</b> 1685 Main Street
<b>CITY:</b> Santa Monica	<b>STATE:</b> CA	<b>ZIP CODE:</b> 90401	

**Step 5: Certification of Assignment:** I certify that this case is properly filed in the Central District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., §392 et seq., and Local Rule 2.3(a)(1)(E)].

Dated: April 11, 2016

(SIGNATURE OF ATTORNEY/FILING PARTY)

**PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:**

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 02/16).
5. Payment in full of the filing fee, unless there is court order for waiver, partial or scheduled payments.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

04/12/2016

# Exhibit C

FEB 23 2017

Shorri H. Carter, Executive Officer/Clerk  
By: Charlie L. Coleman, Deputy

1 Kevin I. Shenkman, Esq. (SBN 223315)  
2 Mary R. Hughes, Esq. (SBN 222622)  
3 John L. Jones, Esq. (SBN 225411)  
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14 Telephone: (415) 625-8454

15 Attorneys for Plaintiffs

16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
17 **COUNTY OF LOS ANGELES**

18 **PICO NEIGHBORHOOD**  
19 **ASSOCIATION and MARIA LOYA**  
20 Plaintiff,

21 v.

22 **CITY OF SANTA MONICA,**  
23 **CALIFORNIA; and DOES 1-100,**  
24 inclusive,

25 Defendants.

Case No.: BC616804

**FIRST AMENDED COMPLAINT FOR  
VIOLATION OF:**

- 21 1) CALIFORNIA VOTING RIGHTS ACT  
OF 2001; and
- 22 2) EQUAL PROTECTION CLAUSE OF  
23 CALIFORNIA CONSTITUTION

Dept. 28 – Hon. Yvette Palazuelos

1 COMES NOW Plaintiffs Pico Neighborhood Association (hereinafter "PNA") and Maria  
2 Loya (hereinafter "Loya") (collectively "Plaintiffs"), and allege as follows:

3  
4 **NATURE OF THE ACTION**

5 1. This action is brought by Plaintiffs for injunctive relief against the City of Santa  
6 Monica, California, for its violation of the California Voting Rights Act of 2001 (hereinafter  
7 the "CVRA"), Cal. Elec. Code §§ 14025, et seq., and for declaratory relief that the provision  
8 of the Santa Monica City Charter requiring the at-large election of its city council is  
9 unconstitutional. The current system of at-large council elections was adopted in 1946,  
10 purposefully to prevent non-Anglo Santa Monicans residing primarily around and south of  
11 what is now Interstate 10 from achieving representation in their local governments. Since  
12 that time, at-large elections have been very successful in achieving that purpose -- the  
13 imposition of the City of Santa Monica's at-large method of election has accomplished its  
14 nefarious purpose -- dilution of Latino voting power and denial of effective political  
15 participation in elections to the Santa Monica City Council. The City of Santa Monica's at-  
16 large method of election for electing members to its City Council prevents Latino residents  
17 from electing candidates of their choice or influencing the outcome of Santa Monica's City  
18 Council elections.

19 2. The effects of the City of Santa Monica's at-large method of election are  
20 apparent and compelling. Since the adoption of at-large elections in the City of Santa Monica  
21 more than sixty years ago, only one Latino has been elected to the City Council, and not a  
22 single Latino resident of the Pico Neighborhood, where Latinos are concentrated, has been  
23 elected to the Santa Monica City Council. Latino residents of the Pico Neighborhood,  
24 including Ms. Loya, have run in several recent elections for the Santa Monica City Council,  
25 and though they have often drawn significant support from both voters in the Pico  
26 Neighborhood and by Latino voters generally, they have all lost due to the costly and  
27 discriminatory at-large system by which Santa Monica elects its city council. Rather, all of  
28 the Latino candidates preferred by the Latino electorate were defeated by the bloc voting of  
the non-Latino electorate against them.

1           3.       Santa Monica's at-large method of election violates the CVRA. Plaintiffs bring  
2 this action to enjoin the City of Santa Monica's continued abridgment of Latino voting rights.  
3 Plaintiffs seek a declaration from this Court that the at-large method of election currently  
4 used by the City of Santa Monica violates the CVRA. Plaintiffs seek injunctive relief  
5 enjoining the City of Santa Monica from further imposing or applying its current at-large  
6 method of election. Further, Plaintiffs seek injunctive relief requiring the City of Santa  
7 Monica to implement district based elections or other alternative relief tailored to remedy  
8 Santa Monica's violation of the CVRA.

9           4.       At-large elections were adopted by Santa Monica with the purpose of  
10 discriminating against Santa Monica's ethnic minority population residing in the southern  
11 portion of the city. That fact alone – that the adoption of at-large elections was generally  
12 motivated by a desire to disenfranchise ethnic minorities – makes the at-large election system  
13 unconstitutional today, and requires that this Court remedy the harm caused by the imposition  
14 of that discriminatory election system. Specifically, the provision in the Santa Monica City  
15 Charter requiring at-large elections for the city council, not only runs afoul of the CVRA, it  
16 also runs afoul of the Equal Protection Clause (Article I, Section 7) of the California  
17 Constitution, among other controlling laws.

18           5.       Plaintiffs, through their counsel, attempted to avoid the need for litigation by  
19 engaging in a dialogue with the City of Santa Monica. Specifically, Plaintiffs, through their  
20 counsel, brought this CVRA violation to the attention of the City of Santa Monica through  
21 correspondence sent nearly four months prior to the filing of the original Complaint in this  
22 case. Despite that correspondence, the Santa Monica City Council has taken no action to end  
23 its violation of the CVRA, content to continue violating the CVRA and their constituents'  
24 voting rights by clinging to a relic of its racist past. In fact, other than an email from Santa  
25 Monica's city attorney on December 28, 2015 noting that the matter would be considered by  
26 the city council in closed session on January 12, 2016, and promising a substantive response  
27 thereafter, Defendant City of Santa Monica has not responded at all.

28

1 **PARTIES**

2 6. Established in 1979, PNA is a non-profit organization dedicated to improving  
3 the living conditions and advancing the interests, including those related to the political  
4 process, of residents of the Pico Neighborhood of Santa Monica, where Latino residents of  
5 Santa Monica are concentrated, and advocating for the interests of Pico Neighborhood  
6 residents before the Santa Monica City Council. PNA has dozens of members, including  
7 Latino registered voters residing in the City of Santa Monica.

8 7. The Latino residents of Santa Monica whose voting rights are immediately  
9 harmed by the City of Santa Monica's adherence to an unlawful at-large system of electing its  
10 city council are hindered from protecting their own interests. Many of the Latino citizens of  
11 Santa Monica do not recognize that their voting rights are being violated by the City of Santa  
12 Monica's adherence to an unlawful at-large system of electing its city council, and still others  
13 fear reprisal by the City of Santa Monica if they were to seek redress for the City of Santa  
14 Monica imposing its unlawful election system.

15 8. Despite that fear of reprisal, Maria Loya feels compelled to seek redress for the  
16 City of Santa Monica's violation of the CVRA and dilution of the Latino vote in Santa  
17 Monica. Loya is a member of a "protected class" as that term is defined in the CVRA – she  
18 is Latina – and she is registered to vote and resides in the City of Santa Monica.

19 9. At all times herein mentioned, Defendant City of Santa Monica, California  
20 (hereinafter "Santa Monica," or "Defendant") is and has been a political subdivision subject  
21 to the provisions of the CVRA.

22 10. Plaintiffs are unaware of the true names and capacities, whether individual,  
23 corporate, associate, or otherwise, of defendants sued herein as Does 1 through 100,  
24 inclusive, and therefore, sues said defendants by such fictitious names and will ask leave of  
25 court to amend this complaint to show their true names and capacities when the same have  
26 been ascertained. Plaintiffs are informed and believe and thereon allege that defendants Does  
27 1 through 100, inclusive, are responsible on the facts and theories herein alleged.

28

1 11. Does 1 through 100, inclusive, are Defendants that have caused Santa Monica  
2 to violate the CVRA, failed to prevent Santa Monica's violation of the CVRA, or are  
3 otherwise responsible for the acts and omissions alleged herein.

4 12. Plaintiffs are informed and believe and thereon allege that Defendants and each  
5 of them are in some manner legally responsible for the acts and omissions alleged herein, and  
6 actually and proximately caused and contributed to the various injuries and damages referred  
7 to herein.

8 13. Plaintiffs are informed and believe and thereon allege that at all times herein  
9 mentioned each of the Defendants was the agent, partner, predecessor in interest, successor in  
10 interest, and/or employee of one or more of the other Defendants, and were at all times herein  
11 mentioned acting within the course and scope of such agency and/or employment.

12  
13 **JURISDICTION AND VENUE**

14 14. All parties hereto are within the unlimited jurisdiction of this Court. The  
15 unlawful acts complained of occurred in Los Angeles County. Venue in this Court is proper.

16  
17 **FACTS**

18 15. The City of Santa Monica contains approximately 89,736 persons, of whom  
19 approximately 13.1% are Hispanic or Latino, based upon the 2010 United States Census.

20 16. The City of Santa Monica is governed by a city council. The Santa Monica  
21 City Council serves as the governmental body responsible for the operations of the City of  
22 Santa Monica. The City Council is comprised of seven members, including a Mayor elected  
23 by and from the members of the City Council.

24 17. The Santa Monica City Council members are elected pursuant to an at-large  
25 method of election. Under this method of election, all of the eligible voters of the entire City  
26 of Santa Monica elect the members of the City Council.

27 18. Seats on the City Council are filled on a staggered basis; as a result, every two  
28 years the city electorate elects either three or four City Council members.

1           19.    Upon information and belief, since its adoption of its current system of at-large  
2 elections in 1946, only one of Santa Monica's city council members has been Latino, and he  
3 was not a resident of the Latino-concentrated Pico Neighborhood.

4           20.    Elections conducted within the City of Santa Monica are characterized by  
5 racially polarized voting. Racially polarized voting occurs when members of a protected  
6 class as defined by the CVRA, Cal. Elec. Code § 14025(d), vote for candidates and electoral  
7 choices that are different from the rest of the electorate. Racially polarized voting exists  
8 within the City of Santa Monica because there is a difference between the choice of  
9 candidates or other electoral choices that are preferred by Latino voters, and the choice of  
10 candidates or other electoral choices that are preferred by voters in the rest of the electorate,  
11 with the result being that Latino-preferred candidates usually lose.

12           21.    For example, in the city council election of 1994, Latino voters cohesively  
13 preferred Tony Vazquez -- himself a Latino. But, the non-Hispanic white majority of the  
14 electorate voted as a bloc against Mr. Vazquez, and thus due to the at-large election system  
15 Mr. Vazquez lost. That election was filled with racial hostility in Santa Monica -- mainly  
16 directed at Mr. Vazquez, the sole Latino candidate. A cartoon was published in the local  
17 newspaper, "the Outlook," depicting Mr. Vazquez as a member of a Latino street gang, and a  
18 mailer was distributed attacking Mr. Vazquez for purportedly seeking to allow "illegal"  
19 Latino immigrants to vote. After his loss, the ordinarily calm and collected Mr. Vazquez  
20 explained the reason for his loss -- "the racism that still exists in our city. ... The racism that  
21 came out in this campaign was just unbelievable." In the end, while the candidate preferred  
22 by the Latino voters -- Mr. Vazquez -- was not elected, the first, second and third preferences  
23 of the non-Latino electorate (Bob Holbrook, Pam O'Connor and Ruth Ebner) were all  
24 elected.

25           22.    By way of further example, in the city council election of 2002, Latino voters  
26 cohesively preferred Josefina Aranda -- herself a Latina. But, the non-Hispanic white  
27 majority of the electorate voted as a bloc against Ms. Aranda, and thus due to the at-large  
28 election system Ms. Aranda lost. During the campaign, Ms. Aranda lamented the lack of



1 representation of Latinos and the Pico Neighborhood on the City Council: “[T]here is such a  
2 huge need for more representation from groups that are currently disenfranchised. I am from  
3 the Pico Neighborhood. I am a woman, I am a Latina. I believe I could bring a voice to a lot  
4 of people who currently are not heard. ... Currently, the City Council does not represent the  
5 diversity of the City of Santa Monica. The Pico neighborhood is underrepresented.” While  
6 the candidate preferred by the Latino voters – Ms. Aranda – was not elected, the first, second  
7 and third preferences of the non-Latino electorate (Bob Holbrook, Pam O’Connor and Kevin  
8 McKeown) were all elected, continuing the exact problem that Ms. Aranda had identified.

9       23. A still further example of racially polarized voting in the City of Santa  
10 Monica’s at-large elections, is the 2004 election for Defendant’s city council. In that  
11 election, Latino voters cohesively preferred Maria Loya – herself a Latina. But, the non-  
12 Hispanic white majority of the electorate voted as a bloc against Ms. Loya, and thus due to  
13 the at-large election system Ms. Loya lost. The demonstration of racially polarized voting  
14 and the dilutive effect of Santa Monica’s system of at-large elections is particularly striking in  
15 the 2004 election. Bobby Shriver, a member of the Kennedy family, came in first place  
16 among several candidates by a wide margin in the citywide vote count. In fact, except for the  
17 Pico Neighborhood, where Santa Monica’s Latino community is concentrated, Mr. Shriver  
18 came in first place in every one of the seven recognized neighborhoods that make up the City  
19 of Santa Monica, beating the other candidates in their own neighborhoods. In the Pico  
20 Neighborhood, where Ms. Loya resided (and still resides), Ms. Loya came in first, garnering  
21 significantly more votes than any other candidate, even Bobby Shriver. But, because  
22 Defendant utilized an at-large method of election, rather than a district-based election, the  
23 fact that Ms. Loya was strongly preferred by voters in the region where she resided, and  
24 Latinos more generally throughout the city, made no difference to the outcome of the  
25 election. In the end, while the candidate preferred by the Latino voters – Ms. Loya – was not  
26 elected, the first, second and third preferences of the non-Latino electorate (Bobby Shriver,  
27 Richard Bloom and Herb Katz) were all elected.

28

1           24. This pattern of racially polarized voting has not ended. For example, in even  
2 the most recent election – in November 2016 – the election for the City of Santa Monica’s  
3 council again exhibited the same sort of racially polarized voting. In that election, Latino  
4 voters cohesively preferred Oscar de la Torre – himself a Latino. But, the non-Hispanic  
5 white majority of the electorate voted as a bloc against Mr. de la Torre, and thus due to the at-  
6 large election system Mr. de la Torre lost. There were two candidates residing in the Pico  
7 Neighborhood in the 2016 election – Terry O’Day and Oscar de la Torre (the candidate  
8 preferred by Latino voters). In the four precincts that lie entirely within the Pico  
9 Neighborhood, Mr. O’Day received 1238 votes and Mr. de la Torre received 1317 votes. So,  
10 if Defendant utilized a district-based election system Mr. de la Torre would likely have  
11 prevailed; but, in Defendant’s plurality at-large system, Mr. O’Day won a seat on the council  
12 and Mr. de la Torre did not. In fact, taking those four precincts, Mr. de la Torre received  
13 more votes than any other candidate. Still, despite his strong support in the Pico  
14 Neighborhood, and being the preferred candidate of Latino voters, Mr. de la Torre lost in  
15 Defendant’s at-large election. In the end, while the candidate preferred by the Latino voters –  
16 Mr. de la Torre – was not elected, the first, second and third preferences of the non-Latino  
17 electorate (Ted Winterer, Glean Davis and Terry O’Day) were all elected.

18           25. Racially polarized voting in Santa Monica has not been limited to the elections  
19 discussed in the preceding paragraphs; rather those elections are intended only to be  
20 exemplary, and the discussion of each is not exhaustive.

21           26. Historical, economic and social factors also contribute to Latino voters’  
22 inability to elect candidates of their choice or influence the outcome of elections for the Santa  
23 Monica City Council in the current at-large election system. Santa Monica has a long history  
24 of racial discrimination against Latinos and other racial minorities. For example, the city’s  
25 population was segregated by race in housing, public accommodations and schools – Latinos  
26 and African Americans were prohibited from purchasing homes in the more desirable  
27 northern portion of the City by deed restrictions; public beaches were reserved for only non-  
28 Hispanic whites, with one small beach area designated by Defendant for “colored use”

1 according to its Shoreline Plan Map; and Latinos and African Americans were relegated to  
2 the lower-funded lower-performing public schools in the southern portion of the city. That  
3 historical discrimination, some of which continues to the present, has resulted in Latinos  
4 having less wealth, less education, a lower literacy rate, worse health, a higher unemployment  
5 rate, and a lower median household income than non-Hispanic white residents of Santa  
6 Monica.

7       27. Latinos are concentrated in the Pico Neighborhood of Santa Monica, an area the  
8 residents have coined the “toxic triangle” for the environmental hazards Defendant has  
9 dumped in that neighborhood. According to a June 2016 report by Defendant’s Planning  
10 Commission, the proportions of Latinos and African Americans are three times as high in the  
11 Pico Neighborhood as they are in the City of Santa Monica as a whole – 39% Latino and 12%  
12 African American in the Pico Neighborhood compared to 13% Latino and 4% African  
13 American in the City as a whole. That report confirms that:

- 14       • among the neighborhoods of Santa Monica, Pico Neighborhood residents have  
15       the highest unemployment rate, lowest median household income, and highest  
16       rate of economic worry;
- 17       • Pico Neighborhood residents have the lowest health score of any neighborhood  
18       in Santa Monica;
- 19       • Pico Neighborhood residents have the lowest early literacy rates and lowest  
20       performance in mathematics in Santa Monica; and
- 21       • Pico Neighborhood residents have the lowest rates in the City of: life  
22       satisfaction, flourishing, having time to do things they enjoy, time and effort put  
23       into the community, trust in neighbors, sense of belonging in their community,  
24       pride in Santa Monica, feeling Santa Monica is beautiful, sense that they have  
25       access to all that is needed in Santa Monica, use of outdoor space, time spent at  
26       community places, and satisfaction with their housing.

27       28. The at-large elections for Defendant’s city council are extraordinarily  
28 expensive. While a successful campaign in an at-large election for a city council seat in a

1 California city the size of Santa Monica would typically require less than \$50,000, several  
2 hundreds of thousands of dollars are routinely spent on each city council election in Santa  
3 Monica. Of course, district election campaigns are much less expensive, as there are fewer  
4 voters a candidate must reach and they all live in a smaller geographic area, making less  
5 expensive campaign tactics, such as walking door to door, more effective. Even the relatively  
6 expensive campaigning method of distributing campaign literature by mail, which has  
7 become a primary means of campaigning for many city council candidates in Santa Monica,  
8 is much less costly in a district-based election system, and thus more feasible for candidates  
9 with limited funds. Latino and African American candidates typically do not have  
10 comparable access to the large sums of money that non-Hispanic white residents of Santa  
11 Monica spend on local political campaigns, and the Latino and African American  
12 communities do not have even close to the same sort of disposable money and resources that  
13 the non-Hispanic white community has to spend on getting its preferred candidates elected in  
14 Santa Monica's at-large elections for its city council.

15 29. The slating of candidates that is common in Santa Monica's at-large city  
16 council elections further exacerbates the dilutive effect of those at-large elections. Municipal  
17 law limits contributions to the campaign of a city council candidate to just a little more than  
18 \$300, yet hundreds of thousands of dollars are spent advocating for/against city council  
19 candidates. Those hundreds of thousands of dollars are, therefore, necessarily pooled and  
20 spent by political action committees that support a slate of candidates; it is not reasonably  
21 possible for a single candidate's campaign to raise that amount of money. Latino-preferred  
22 candidates are frequently excluded from those slates, making it even more difficult for those  
23 candidates to succeed in the ridiculously expensive at-large elections for the Santa Monica  
24 City Council.

25 30. Racially polarized voting is legally significant in Santa Monica's City Council  
26 elections because it dilutes the opportunity of Latino voters to elect candidates of their choice.

27 31. Patterns of racially polarized voting have the effect of impeding opportunities  
28 for Latino voters to elect candidates of their choice to the at-large city council positions in the

1 City of Santa Monica, where the non-Latino populace dominates elections. For several years,  
2 Latino voters have been harmed by racially polarized voting.

3 32. The at-large method of election and repeated racially polarized voting has  
4 caused Latino vote dilution within the City of Santa Monica. Where Latinos and the rest of  
5 the electorate express different preferences on candidates and other electoral choices, non-  
6 Latinos by virtue of their overall numerical majority among voters, defeat the preferences of  
7 Latino voters.

8 33. The obstacles posed by the City of Santa Monica's at-large method of election,  
9 together with racially polarized voting, impair the ability of people of certain races, color or  
10 language minority groups, such as Latino voters, to elect candidates of their choice or to  
11 influence the outcome of elections conducted in the City of Santa Monica.

12 34. An alternative method of election, such as, but not limited to, district-based  
13 elections, exists that will provide an opportunity for the members of the CVRA-protected  
14 classes to elect candidates of their choice or to influence the outcome of the Santa Monica  
15 City Council elections.

16 35. It is no accident that at-large elections have diluted the vote of ethnic minorities  
17 in elections for Santa Monica's city council - that was a significant motivation and purpose  
18 of adopting at-large elections, instead of the district-based elections previously employed in  
19 Santa Monica for electing members to the city council. The charter provision establishing at-  
20 large elections for selection of Defendant's city council, which is still in effect today, was  
21 adopted in 1946. A Board of Freeholders was established with fifteen members, all Anglo,  
22 and all of whom resided in the northern area of Santa Monica subject to restrictive deed  
23 covenants, referred to as "Caucasian Clauses," preventing African Americans and Latinos  
24 from residing in the area. Throughout the deliberations of the Board of Freeholders, the  
25 method of electing a city council - at-large or through district elections - was the most  
26 controversial issue. At first, the Board of Freeholders, noting that public opinion was divided  
27 on this issue, passed a measure to allow voters to choose between a council with seven  
28 members all elected at-large, and a council with three members elected at-large and four

1 members elected by districts. But then the Board of Freeholders reversed course and  
2 rescinded their previous measure, opting instead to place on the ballot only the option to have  
3 a council all elected at-large. That ballot measure passed.

4 36. It is rare that proponents of a law proclaim their intent to discriminate against  
5 any racial group. Even policies and laws that are today regarded as constituting blatant racial  
6 discrimination, have been defended by their proponents as having more legitimate goals, and  
7 the proponents of such laws are often careful to avoid disclosing their racially discriminatory  
8 motives. But in this case, proponents of at-large elections *did* proclaim their intent to exclude  
9 racial minorities. The Santa Monica Outlook – the principal local newspaper at the time –  
10 addressing the city’s growing racial diversity and the desire of racial minorities to have  
11 district elections to provide them an opportunity to have representation in the city  
12 government, argued in 1946 that Santa Monica should adopt at-large elections, not district  
13 elections, in order that Santa Monica “can and should develop into a remarkably  
14 homogeneous community,” and belittled the “cry [of proponents of district elections] that  
15 ‘minorities must be represented’.”

16 37. Even without such a blunt statement of the proponents’ intent as exists in this  
17 case, the purposes of a law or policy can be revealed by the circumstances contemporaneous  
18 to the enactment of the law or policy, contemporaneous knowledge of the likely disparate  
19 impact of the law or policy on a racial minority group, the racially disparate impact that  
20 results from the law or policy, and the background and other decisions of those enacting the  
21 law or policy.

22 38. In the 1940s, when the current at-large system of electing Defendant’s city  
23 council was adopted, the racial demographics of Santa Monica were rapidly changing.  
24 During the Second World War, the nonwhite population of Santa Monica rose by 69%. This  
25 pronounced growth in the nonwhite population of Santa Monica in the years leading up to  
26 Defendant’s adoption of at-large elections in 1946, combined with the other indicators  
27 discussed herein, demonstrates a racially discriminatory purpose. This demographic change  
28

1 also explains the unease of the Outlook when it advocated for at-large elections because Santa  
2 Monica "can and should develop into a remarkably homogeneous community."

3 39. Racial tensions were high in Santa Monica in 1946, and racial stereotypes and  
4 openly biased attitudes were widespread among the electorate and the leaders who  
5 spearheaded the adoption of at-large elections. The local newspaper unashamedly published  
6 derogatory and racially stereotypical images of people of color, including a recurring cartoon  
7 character known as "The Little Savage" with exaggeratedly thick lips, and even depicting  
8 African Americans as monkeys in cartoons that glorified the "necktie party" – a disturbing  
9 euphemism for the lynchings that were still commonplace. Racial tensions were so high in  
10 Santa Monica in the mid-1940s that the establishment of the Interracial Progress Committee  
11 was deemed necessary to address topics such as "The Roots of Intergroup Tensions in This  
12 Community."

13 40. At-large elections have long been well known to dilute minority vote. The  
14 Board of Freeholders and the electorate of Santa Monica understood well that minority vote  
15 dilution would be the result of at-large elections when they adopted at-large elections in 1946.  
16 In one advertisement, calling for the rejection of at-large elections in 1946, the "Anti-Charter  
17 Committee" decried:

#### 18 MINORITY GROUPS AND THE PROPOSED CHARTER

19 The lot of a member of a minority group, whether it be in a location of  
20 not-so-fine homes, or one of race, creed or color, is never too happy  
21 under the best of conditions.

22 But consider what life would be like under a dictatorship type of  
23 government as proposed under the charter.

24 With seven councilmen elected AT LARGE (and history shows they  
25 will mostly originate from NORTH OF MONTANA), and a city  
26 manager responsible to the seven councilmen plus a dictatorship that  
27 has so long ruled Santa Monica (without regard to minorities) where  
28 will these people be?

1 The proposed ruling groups control the chief of police – and through  
2 him the police force – and the city attorney, the personnel director, the  
3 health officer, etc.

4 Where will the laboring man go? Where will the Jewish, colored or  
5 Mexican go for aid in his special problems?

6 Where will the resident of Ocean Park, Douglas district, the Lincoln-  
7 Pico and other districts go when he needs help?

8 The proposed charter is not fair – it is not democratic.

9 It is a power grab – and we plead with all citizens of Santa Monica to  
10 protect their interests (vote no) and convince your neighbors to vote NO  
11 ON THE PROPOSED CHARTER.

12 Opponents of at-large elections warned that “the largest population centers south of Santa  
13 Monica Blvd. [where racial minorities reside] will not be represented” unless the Council was  
14 elected by districts. Another Anti-Charter advertisement published in the Outlook on  
15 November 4, 1946, just one day prior to the election, argued that the proposed at-large  
16 elections would “starve out minority groups.” It was not just opponents of the charter  
17 measure that recognized that at-large elections would prevent racial minorities from achieving  
18 representation on the Santa Monica City Council, proponents acknowledged it too. For  
19 example, the secretary of the Board of Freeholders acknowledged in a meeting of the local  
20 chapter of the NAACP, that at-large elections provided less opportunity than the alternative  
21 district elections for racial minorities to achieve representation on the city council.

22 41. At-large elections have accomplished exactly what proponents hoped for – and  
23 opponents feared – in 1946: the dilution of the vote of racial and ethnic minorities, as well as  
24 the residents of less privileged neighborhoods in the southern portion of Santa Monica. In the  
25 more than seventy years since the adoption of at-large elections for Defendant’s city council,  
26 there have been 71 individuals elected to the city council. The vast majority have resided in  
27 the northern portion of the city, which was subject to restrictive deed covenants preventing  
28 Latinos and African Americans from purchasing homes in that area. Of those 71 individuals



1 elected to the city council, only one has been Latino. Certainly, there is no reason that a non-  
2 Latino cannot be preferred by Latino voters. But, as the elections discussed above indicate,  
3 when a Latino candidate is perceived as having even a remote chance of winning a city  
4 council election in Santa Monica, the Latino electorate votes cohesively for that Latino  
5 candidate. So, the disproportionate historical absence of Latinos being elected to Defendant's  
6 city council is telling.

7       42. The racially-tinged contemporaneous actions of proponents of at-large elections  
8 in 1946 are also indicative of a racially discriminatory motive. At the same time as the  
9 charter provision adopting at-large elections for Defendant's city council was on the ballot, so  
10 too was Proposition 11, which sought to create a state Fair Employment Practices  
11 Commission (FEPC) and officially ban discrimination based on race, religion, color, or  
12 national origin in the workplace. Proposition 11 was championed by Augustus Hawkins (the  
13 only African American in the California Assembly at the time), the NAACP, the Urban  
14 League, the American Council on Race Relations, the California Federation for Civic Unity,  
15 as well as union organizations like the CIO. Proposition 11 therefore presented a clean issue  
16 – should racial discrimination in employment be prohibited? Proposition 11 was defeated by  
17 a large margin among the electorate in Santa Monica. More importantly, accepted statistical  
18 methods utilized by courts in voting rights cases estimate a stunningly high correlation  
19 between voters' choices on Proposition 11 and the at-large election system charter measure.  
20 Specifically, focusing on the 102 precincts (out of 109 total) that opposed Proposition 11, in  
21 order to gauge the attitudes of non-Hispanic white residents of Santa Monica, 93% of voters  
22 who opposed Proposition 11 also favored the at-large election charter measure, while  
23 virtually 100% of voters who favored Proposition 11 also opposed the at-large election  
24 charter measure. While this correlation does not, in itself, prove that whites supported the at-  
25 large election charter measure *because* of their racial attitudes, the extent of the correlation is  
26 one more piece of evidence in an overall pattern that, taken together, shows that the at-large  
27 election system was chosen over a district election system or hybrid system, at least in part,  
28

1 because of a desire to deny racial minorities a fair opportunity to elect candidates of their  
2 choice to the Santa Monica City Council.

3 43. Taken together, the proclamation by proponents of at-large elections of their  
4 racially discriminatory motive, the circumstances contemporaneous to the enactment of the  
5 at-large election charter provision, contemporaneous knowledge (by both proponents and  
6 opponents) of the likely disparate impact of at-large elections on a racial minority group, the  
7 racially disparate impact that has resulted from at-large elections, and the background and  
8 other decisions of those supporting at-large elections, all demonstrate that the adoption of the  
9 current at-large election system was intended, at least in part, to discriminate against racial  
10 minorities. The evidence of intent enumerated above in the preceding paragraphs is only  
11 exemplary, and the discussion herein is not exhaustive.

12 44. Defendant's unlawful election system must not be allowed to stand, both  
13 because it was intended to disenfranchise minority voters when it was enacted, and because it  
14 has done exactly that and therefore violates the CVRA.

15 45. Indeed, in or around 1992 Defendant was made aware of the fact that its at-  
16 large method of electing its city council diluted the vote of the city's racial minorities, and  
17 that the at-large method of election was intended to do exactly that. Specifically, in 1990,  
18 Defendant established a Charter Review Commission, and in 1991 fifteen members were  
19 appointed to the Charter Review Commission. The Charter Review Commission was asked  
20 to consider, among other things, whether the at-large method of electing the Santa Monica  
21 City Council should be changed. As part of that charge, the Charter Review Commission  
22 sought a study of whether the at-large method of election was adopted with the purpose of  
23 discriminating against racial minorities. According to the Charter Review Commission's  
24 report to Defendant's city council, that report "offers substantial evidence that the current  
25 Charter was, from a voting discrimination point of view, suspect. Though Defendant's City  
26 Attorney's Office gave the Charter Review Commission erroneous legal advice to soften the  
27 impact of the "substantial evidence" in that report, ultimately the Charter Review  
28 Commission recommended that the method of electing Defendant's city council be changed.

1 In fact, according to the Charter Review Commission's July 1992 Report, "[the] Commission  
2 almost unanimously (14 to 1) recommended [a change from the plurality at-large election  
3 system]." The Charter Review Commission explained its rationale as follows:

4 In our near-consensus for recommending a shift from the at-large  
5 plurality system currently in use, we were guided in large part by a  
6 desire to distribute empowerment more broadly in Santa Monica,  
7 particularly to ethnic groups but to neighborhoods and issue groups as  
8 well. A move away from the current system, we believe, should  
9 enhance the responsiveness of representatives and make the electoral  
10 process more open to new ideas and new participants.

11 The Charter Review Commission recognized that "the at-large system is generally considered  
12 an obstacle to ethnic empowerment" that "tend[s] toward homogeneity of views, rather than  
13 diversity," and noted the at-large system had done exactly that in Santa Monica, specifically  
14 citing the "over-representation from the North of Montana area...[and] some areas - notably  
15 the Pico neighborhood - [that] have never been represented on City Council." The Charter  
16 Review Commission went on to report that was the principal reason for its near-unanimous  
17 recommendation that the discriminatory at-large system be scrapped:

18 The central issue, in the Commission's view, is not one of having  
19 Council members who are ethnic, but of empowering ethnic  
20 communities to choose Council members, and on this criterion, the at-  
21 large system is felt to be inadequate

22 46. Even the report of the Charter Review Commission impaneled by Defendant's  
23 City Council was not sufficient to convince the majority of that city council to correct its  
24 racially discriminatory election system. After reviewing the Charter Review Commission's  
25 report, in July 1992, four self-interested council members (out of seven) rejected any change  
26 to the plurality at-large election system. But self-interested council members are not entitled  
27 to maintain a discriminatory election system simply because it is the method that elected  
28 them. With Defendant's city council (then and now) apparently unwilling to respect the

1 voting rights of their minority constituents, it falls on this Court to correct the racially  
2 discriminatory and unlawful election system for the Santa Monica City Council.

3  
4 **FIRST CAUSE OF ACTION**

5 **(Violation of California Voting Rights Act of 2001)**

6 **(Against All Defendants)**

7 47. Plaintiff incorporates by this reference paragraphs 1 through 46 as though fully  
8 set forth herein.

9 48. Defendant City of Santa Monica is a political subdivision within the State of  
10 California. Defendant is a charter city.

11 49. Defendant City of Santa Monica employs an at-large method of election, where  
12 voters of its entire jurisdiction elect members to its City Council.

13 50. Racially polarized voting has occurred, and continues to occur, in elections for  
14 members of the City Council for the City of Santa Monica and in elections incorporating  
15 other electoral choices by voters of the City of Santa Monica, California. As a result, the City  
16 of Santa Monica's at-large method of election is imposed in a manner that impairs the ability  
17 of protected classes as defined by the CVRA to elect candidates of their choice or influence  
18 the outcome of elections.

19 51. An alternative method of election, such as, but not limited to, district-based  
20 elections, exists that will provide an opportunity for Latinos to elect candidates of their choice  
21 or to influence the outcome of the Santa Monica City Council elections.

22 52. An actual controversy has arisen and now exists between the parties relating to  
23 the legal rights and duties of Plaintiffs and Defendants, for which Plaintiffs desire a  
24 declaration of rights.

25 53. Defendants' wrongful conduct has caused and, unless enjoined by this Court,  
26 will continue to cause, immediate and irreparable injury to Plaintiffs, and all residents of the  
27 City of Santa Monica.

28

1 54. Plaintiffs, and the residents of the City of Santa Monica, have no adequate  
2 remedy at law for the injuries they currently suffer and will otherwise continue to suffer.  
3

4 **SECOND CAUSE OF ACTION**

5 **(Violation of California Equal Protection Clause)**

6 **(Against All Defendants)**

7 55. Plaintiff incorporates by this reference paragraphs 1 through 54 as though fully  
8 set forth herein.

9 56. Defendant City of Santa Monica's rejection of district-based elections and  
10 adoption of at-large elections were motivated by the desire to deny local government  
11 representation to racial and ethnic minorities.

12 57. As a direct consequence of the decades-old racially-motivated decisions to  
13 reject district-based elections and adopt at-large elections, Defendant City of Santa Monica  
14 still employs an at-large method of election, where voters of its entire jurisdiction elect  
15 members to its City Council.

16 58. Those intentionally discriminatory decisions are enshrined in what is now  
17 sections 600 and 900 of the Santa Monica City Charter.

18 59. Because the rejection of district-based elections and the adoption of at-large  
19 elections were motivated by a desire to discriminate against the non-Anglo residents of Santa  
20 Monica, those enactments - sections 600 and 900 of the Santa Monica City Charter - are  
21 invalid as they violate, among other laws, the Equal Protection Clause of the California  
22 Constitution (Article I Section 7).

23 60. An actual controversy has arisen and now exists between the parties relating to  
24 the legal rights and duties of Plaintiffs and Defendants, for which Plaintiffs desire a  
25 declaration of rights.

26 61. A declaration by this Court regarding the invalidity of Defendant's at-large  
27 election system, and specifically sections 600 and 900 of the Santa Monica City Charter, is  
28

1 necessary to prevent Defendant from continuing to employ that intentionally-discriminatory  
2 election system.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as  
5 follows:

6 1. For a decree that the City of Santa Monica's current at-large method of election  
7 for the City Council violates the California Voting Rights Act of 2001;

8 2. For a decree that the City of Santa Monica's current at-large method of election  
9 for the City Council, and specifically sections 600 and/or 900 of the Santa Monica City  
10 Charter, was adopted with the purpose of discriminating against, and denying effective  
11 representation to, non-Anglo residents of Santa Monica, and therefore those provisions are  
12 invalid.

13 3. For preliminary and permanent injunctive relief enjoining the City of Santa  
14 Monica from imposing or applying its current at-large method of election;

15 4. For injunctive relief mandating the City of Santa Monica to implement district-  
16 based elections, as defined by the California Voting Rights Act of 2001, or other alternative  
17 relief tailored to remedy the City of Santa Monica's violation of the California Voting Rights  
18 Act of 2001;

19 5. For injunctive relief mandating the prompt election of council members through  
20 district-based elections, or another election method tailored to remedy Defendant's violation  
21 of the California Voting Rights Act of 2001;

22 6. Other relief tailored to remedy the City of Santa Monica's violation of the  
23 California Voting Rights Act of 2001;

24 7. Other relief tailored to remedy the City of Santa Monica's violation of the  
25 Equal Protection Clause of the California Constitution;

26 8. For an award of Plaintiffs' attorneys' fees, costs, litigation expenses and  
27 prejudgment interest pursuant to the CVRA, Cal. Elec. Code § 14030 and other applicable  
28 law; and

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9. For such further relief as the Court deems just and proper.

DATED: February 22, 2017

Respectfully submitted:

**SHENKMAN & HUGHES,  
R. REX PARRIS LAW FIRM, and  
LAW OFFICES OF MILTON C. GRIMES  
LAW OFFICE OF ROBERT RUBIN**

By:

  
\_\_\_\_\_  
Kevin Shenkman  
Attorneys for Plaintiff

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 28905 Wight Rd., Malibu, California 90265.

On February 23, 2017, I served true copies of the following document(s) described as

FIRST AMENDED COMPLAINT

on the interested parties in this action as follows:

George Brown, William Thomson and Tiuania Bedell  
Gibson Dunn & Crutcher LLP  
333 S. Grand Ave.  
50<sup>th</sup> Floor  
Los Angeles, CA 90071

**BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Shenkman & Hughes' practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

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

Executed on February 23, 2017 at Malibu, California.

  
\_\_\_\_\_  
Kevin Shenkman



# Exhibit D

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Mary R. Hughes (SBN 226622)  
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14 Attorneys for Plaintiffs

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
16 **COUNTY OF LOS ANGELES**

17 **PICO NEIGHBORHOOD ASSOCIATION**  
18 **and MARIA LOYA,**

19 Plaintiffs,

20 v.

21 **CITY OF SANTA MONICA, and DOES 1**  
through 100, inclusive.

22 Defendants.

CASE NO. BC616804

**NOTICE OF MOTION AND MOTION  
FOR AN AWARD OF ATTORNEYS'  
FEES AND EXPENSES;  
MEMORANDUM OF POINTS AND  
AUTHORITIES**

**[Declarations of Hon. Margaret Grignon  
(Ret.), Barrett Litt, Kevin Shenkman, R.  
Rex Parris, Milton Grimes and Robert  
Rubin, and [Proposed] Order filed  
herewith]**

Date: August 28, 2019  
Time: 10:00 a.m.  
Dept.: SSC-9

**[Assigned for all purposes to the Honorable  
Yvette Palazuelos]**

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE THAT on August 28, 2019 at 10:00 a.m in Dept. SSC-9 of the  
3 above-entitled court, Plaintiffs Pico Neighborhood Association ("PNA") and Maria Loya  
4 (collectively "Plaintiffs") will and hereby do move for an award of attorneys' fees in the amount of  
5 \$13,419,398.25 to Shenkman & Hughes PC, \$4,380,806.25 to the Parris Law Firm, \$2,342,463.75 to  
6 the Law Offices of Milton C. Grimes, and \$1,278,676.13 to the Law Office of Robert Rubin, as well  
7 as expenses of \$905,725.14 pursuant to Elections Code Section 14030 and Code of Civil Procedure  
8 Section 1021.5. The requested award of attorneys' fees is based upon total "lodestar" amounts of  
9 \$5,964,177, \$1,947,025, \$1,041,095, and \$568,300.50, corresponding to the work performed by  
10 Shenkman & Hughes PC, the Parris Law Firm, the Law Offices of Milton C. Grimes and the Law  
11 Office of Robert Rubin, respectively, with application of a lodestar multiplier of 2.25.

12 This motion is made on the grounds that this action sought to enforce the California Voting  
13 Rights Act of 2001 ("CVRA") and the Equal Protection Clause of the California Constitution for the  
14 benefit of the thousands of Latino voters in Santa Monica; Plaintiffs are "prevailing" and  
15 "successful" plaintiffs within the meaning of Section 14030 of the CVRA, Section 1021.5 of the  
16 Code of Civil Procedure, and by any other measure; and the amount of fees and expenses sought is  
17 reasonable considering the novelty and complexity of the case, the unqualified victory achieved by  
18 Plaintiffs, the public benefit achieved for minority residents in Santa Monica, and the significant risk  
19 taken by Plaintiffs' counsel in pursuing this case.

20 This motion is based on this Notice of Motion, the Memorandum of Points and Authorities,  
21 the Declarations of Hon. Margaret Grignon (Ret.), Barrett Litt, Kevin I. Shenkman, R. Rex Parris,  
22 Robert Rubin and Milton C. Grimes, served and filed concurrently herewith, on the records and file  
23 of the Court, and on such evidence as may be presented at the hearing of this motion.

24 Respectfully submitted:

25 DATED: June 3, 2019

**SHENKMAN & HUGHES PC,  
PARRIS LAW FIRM,  
LAW OFFICES OF MILTON C. GRIMES, and  
LAW OFFICES OF ROBERT RUBIN**

27 By: 

28 Kevin I. Shenkman

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1 **I. INTRODUCTION**

2 As a result of this case, the votes of the Latino citizens of Santa Monica will no longer be  
3 diluted, and all of the residents of Santa Monica will, once Defendant's appeal is resolved, be  
4 represented by a lawfully-elected city council for the first time in over 70 years. The effect of this  
5 case goes well beyond the boundaries of Santa Monica – other political subdivisions have taken note  
6 of this case and abandoned their own at-large election systems in favor of district-based elections,  
7 ensuring minority residents in those jurisdictions of representation in their local governments too.

8 To achieve that result was no easy task. Plaintiffs' claims – for violation of the California  
9 Voting Rights Act ("CVRA") and Equal Protection Clause - required an intensive statistical and  
10 practical analysis of decades of election and demographic data as well as an extensive investigation  
11 of the political circumstances and discriminatory history of Santa Monica. Defendant's scorched-  
12 earth approach to this case did not make it any easier. Three years of contentious litigation included:  
13 two pleading challenges; a summary judgment motion; three writ petitions; a petition for review to  
14 the California Supreme Court; 24 fact witness depositions; 8 expert witness depositions; a litany of  
15 discovery motions; a six-week expert-intensive trial; and post-trial hearings regarding remedies.  
16 Indeed, Plaintiffs' work is not done – Defendant has refused to hold the July 2019 election ordered  
17 by this Court and so Plaintiffs will likely be required to take even further action to enforce this  
18 Court's judgment.

19 At every stage, Plaintiffs prevailed, and still Defendant refused to settle this case as nearly  
20 every other political subdivision facing similar claims has done. Because voting rights are the most  
21 fundamental in our democracy, Plaintiffs' counsel undertook all of their work, carefully and  
22 thoroughly, and continue to do so, to ensure that Latino residents of Santa Monica are no longer  
23 deprived of their voting rights.

24 The efforts of Plaintiffs' counsel in this important case have been extraordinary – thousands  
25 of hours of work and nearly a million dollars in out-of-pocket expenses that have had a deleterious  
26 effect on their finances and physical health. For their efforts in this notorious case, Plaintiffs and  
27 their counsel have endured a constant barrage of political retaliation and personal attacks in the press  
28 by Defendant and its supporters.

To encourage private attorneys to enforce the CVRA and the Equal Protection Clause, in  
spite of the inherent risks and drawbacks, the California Legislature provided that prevailing  
plaintiffs be awarded their attorneys' fees and expenses, including expert witness fees. (See Elec.

1 Code §14030; Code of Civ. Proc. §1021.5). There is no question that Plaintiffs have prevailed, and  
2 so now they are entitled to recover their attorneys' fees and expenses from the recalcitrant Defendant  
3 that necessitated those fees and expenses to be incurred.

## 4 II. BACKGROUND FACTS

### 5 A. Pre-Lawsuit Efforts to Convince Defendant to Comply with the CVRA

6 Before filing suit, Plaintiffs and their counsel, with the assistance of renowned experts, David  
7 Ely and Morgan Kousser, conducted a preliminary study of Santa Monica's elections to determine  
8 whether those elections were characterized by racially polarized voting – the key element in a CVRA  
9 case. (Shenkman Decl. ¶ 10). Plaintiffs' counsel also investigated the unique history and controversy  
10 surrounding Santa Monica's adoption and maintenance of its at-large election system, to evaluate  
11 whether an Equal Protection claim might also be justified. (*Id.*) At the same time, Plaintiffs' counsel  
12 engaged with civic leaders in Santa Monica and immersed themselves in Santa Monica's politics,  
13 city council actions, and historical discrimination to better understand the unique circumstances in  
14 Santa Monica concerning race and elections. (*Id.* at ¶¶ 10, 11). Since the *Jauregui v. City of*  
15 *Palmdale* decision, the vast majority of political subdivisions notified of the illegality of their at-  
16 large election systems have quickly adopted district elections. However, based on Plaintiffs'  
17 counsel's investigation and conversation with Tony Vazquez (the only Latino to ever win a council  
18 seat in Santa Monica), it became clear that Defendant would not acquiesce so easily. (*Id.* at ¶ 11)

19 Satisfied with their preliminary investigation revealed a strong case, on December 15, 2015  
20 Plaintiffs' counsel wrote to Defendant, notifying Defendant that its at-large elections were unlawful  
21 and requesting a conversation about changing Defendant's unlawful at-large system of electing its  
22 city council. (*Id.* at ¶ 12, Ex. C). Defendant took notice of that letter but took no substantive action  
23 on the matter, and did not even grant the courtesy of a response. (*Id.* at ¶ 12, Ex. D).

### 24 B. Contentious Litigation and Plaintiffs' Victory.

25 After having waited four months for Defendant's response which never came, Plaintiffs filed  
26 their Complaint on April 12, 2016. (*Id.* at ¶ 13). As this Court is no doubt aware, the resulting  
27 litigation has been extensive and contentious – from the moment the Complaint was filed, and  
28 continuing to this day. By the time judgment was entered, Defendant's recalcitrance had resulted in:  
two pleading challenges; a summary judgment motion; three writ petitions; a petition for review to



1 the California Supreme Court; 24 fact witness depositions; 8 expert witness depositions; 31  
2 discovery motions;<sup>1</sup> a six-week expert-intensive trial; and a series of post-trial hearings regarding  
3 remedies. (*Id.* at ¶ 16). In the end, Plaintiffs achieved a complete and historic victory – prevailing  
4 on their CVRA claim and obtaining the first-ever judgment that a city’s at-large elections violate the  
5 California Constitution’s Equal Protection clause. Further, this Court ordered the remedies proposed  
6 by Plaintiffs, including a district map designed to remedy decades of minority vote dilution.

7 To achieve that result was not easy. This case presented several legal issues of first  
8 impression, some of constitutional magnitude, for which Plaintiffs were required to synthesize the  
9 significant body of law concerning the federal Voting Rights Act (“FVRA”) and Equal Protection  
10 Clause of the U.S. Constitution with the sometimes significantly different CVRA and Equal  
11 Protection Clause of the California Constitution, about which there is significantly less published  
12 authority. And, Defendant’s retention of superb counsel from Gibson Dunn & Crutcher LLP made  
13 Plaintiffs’ task even more difficult and time consuming. The complexity of the issues, and the  
14 scorched-earth approach taken by Defendant and its attorneys with their seemingly endless  
15 resources, made this case far more challenging than any contract or personal injury dispute or even  
16 FVRA that are more frequently enforced.

### 16 III. ARGUMENT

#### 17 A. Plaintiffs Are the Prevailing Parties Entitled to Attorneys’ Fees and Expenses.

18 To encourage private attorneys to protect the voting rights of minority citizens, the CVRA  
19 explicitly provides for the recovery of attorneys’ fees and expenses by a prevailing plaintiff:

20 In any action to enforce Section 14027 and Section 14028, the court shall allow the  
21 prevailing plaintiff party, other than the state or political subdivision thereof, a  
22 reasonable attorney’s fee consistent with the standards established in *Serrano v. Priest* (1977) 20 Cal.3d 25, 48-49, and litigation expenses including, but not limited  
to, expert witness fees and expenses as part of the costs. (Elec. Code § 14030.)

23 Further, section 1021.5 of the Code of Civil Procedure provides for an award of attorneys fees to “a  
24 successful party ... in any action which has resulted in the enforcement of an important right  
25

26 \_\_\_\_\_  
27 <sup>1</sup> This Court was spared from the burden of most of those discovery motions, which were decided by  
28 the discovery referee, Hon. Luis Cardenas (Ret.), and the parties accepted the referee’s decisions.

1 affecting the public interest.”<sup>2</sup>

2 That Plaintiffs are the prevailing and successful parties here is beyond doubt. Plaintiffs  
3 prevailed on both of their claims and achieved *every* one of their litigation objectives, with the  
4 ultimate adoption of not only district-based voting, but Plaintiffs’ preferred district map and other  
5 important relief as part of a plan to remedy Defendant’s past dilution of the Latino vote. (See *Maria*  
6 *P. v. Riles* (1987) 43 Cal.3d 1281, 1292; *Bowman v. City of Berkeley* (2005) 131 Cal.App.4<sup>th</sup> 173,  
7 178; see also *Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4<sup>th</sup> 553; *Santisas v. Goodin* (1998) 17  
8 Cal.4<sup>th</sup> 599, 622). Moreover, this Court’s Judgment confirms, “[p]ursuant to Elections Code Section  
9 14030 and Code of Civil Procedure Section 1021.5, Plaintiffs are the prevailing and successful  
10 parties and are entitled to recover reasonable attorneys’ fees and costs, including expert witness fees  
11 and expenses.” (Judgment, ¶ 11).

11 **B. Plaintiffs’ Lodestar Is Supported By Substantial Evidence.**

12 Attorneys’ fees are to be awarded to prevailing plaintiffs in CVRA cases “consistent with the  
13 standards established in *Serrano v. Priest* (1977) 20 Cal.3d 25, 48-49.” (Elec. Code §14030).  
14 *Serrano* is also applicable to determining the amount of an attorneys’ fees award for Plaintiffs’ equal  
15 protection claim: *Serrano* was similarly a case in which the plaintiffs prevailed on an equal  
16 protection claim. In *Serrano*, the California Supreme Court approved of the “private attorney  
17 general doctrine.” justifying an award of fees to successful parties in, among other areas, civil rights  
18 and public interest litigation, and also established the “lodestar” methodology for calculating an  
19 appropriate amount of a fees award. (*Serrano*, 20 Cal.3d at 48; see also *Maria P.* 43 Cal.3d at 1295  
20 [“since determination of the lodestar figure is so fundamental to calculating the amount of the award,  
21 the exercise of that discretion must be based on the lodestar adjustment method.”], quoting *Press v.*  
*Lucky Stores, Inc.* (1983) 34 Cal.3d 311, 324).

22 Under the “lodestar” methodology, a base amount is first calculated by multiplying the time  
23 reasonably spent by each attorney by the reasonable hourly rate of each. (*Serrano*, 20 Cal.3d at 48).  
24 Included in the time reasonably spent by each attorney, is time spent prior to filing the action.  
25 (*Stokus v. Marsh* (1990) 217 Cal. App. 3d 647, 654-656).<sup>3</sup> Then, the base amount may be adjusted

26 <sup>2</sup> Section 1021.5 is especially applicable to constitutional claims against public agencies seeking only  
27 non-monetary relief. (See *Serrano v. Priest* (1977) 20 Cal. 3d 25).

28 <sup>3</sup> The time spent in preparing and litigating a fee application is also recoverable. See *Serrano v.*

1 based on several factors – in *Serrano*. for example, the court multiplied the base amount by  
2 approximately 1.4 to award Plaintiffs’ counsel \$800,000 (in 1975 dollars). *Id.* at 49.

3 The litigation and trial of this action have been an extraordinary undertaking, involving four  
4 law firms - Shenkman & Hughes PC, the Parris Law Firm, the Law Offices of Milton C. Grimes and  
5 the Law Offices of Robert Rubin. These four law firms are collectively responsible for the appellate  
6 decisions upholding the constitutionality of the CVRA and applicability to charter cities, and  
7 victories in the only three other CVRA cases to go to trial – *Jauregui v. City of Palmdale*, Los  
8 Angeles Superior Court Case No. BC483039, *Garrett v. City of Highland*, San Bernardino Superior  
9 Court Case No. CIVDS-1410696, and *Yumori-Kaku v. City of Santa Clara*, Santa Clara Superior  
10 Court Case No. 17CV319862. Though their experience in those cases was useful in this case,  
11 ultimately each CVRA case requires a factual and legal analysis particular to the defendant political  
12 subdivision, and this case was unique in that it included an Equal Protection claim, among other  
13 things. Through two pleading challenges, extensive fact and expert discovery including 32  
14 depositions, dozens of motions, constitutional challenges, three writ petitions, a petition for review to  
15 the California Supreme Court, a six-week trial, and a series of hearings regarding remedies,  
16 Plaintiffs’ combined attorneys necessarily expended 12,714.98 hours in litigating this case.

17 In support of the instant motion, Plaintiffs have submitted declarations from each law firm  
18 that has represented Plaintiffs in this case. These declarations include detailed time records for each  
19 attorney (and one paralegal), a summary chart organizing Shenkman & Hughes PC’s efforts into  
20 various categories of tasks, and support for the key attorneys’ respective hourly rates. (Shenkman  
21 Decl. ¶¶ 2-9, 19-27, Exs. A, I, J, K, L, M; Parris Decl. ¶¶ 2-16, Exs. 1-4; Grimes Decl. ¶¶ 2-19, Exs.  
22 1-4; Rubin Decl. ¶¶ 2-28, Ex. 1). The declarations, therefore, are more than sufficient to establish  
23 the amount of an appropriate fee award. (Compare *Sommers v. Erb* (1992) 2 Cal.App.4<sup>th</sup> 1644, 1651  
24 [accepting and relying on declaration in which counsel “estimated he spent between 130 and 150  
25 hours on the case.”].)

26 I. Plaintiffs’ Counsel Spent a Reasonable Number of Hours on This Case.

27 California law provides that “an attorney fee award should ordinarily include compensation

28 *Unruh* (1982) 32 Cal. 3d 621, 624. However, consistent with Cal. R. Ct. 3.1702, this motion seeks  
only fees “for services up to and including the rendition of judgment in the trial court,” i.e. February  
13, 2019. Defendant has filed a Notice of Appeal, so once this Court’s judgment is affirmed  
Plaintiffs will seek to recover attorneys’ fees for their work following this Court’s entry of judgment.

1 for *all* the hours *reasonably spent*.” (*Keitchum v. Moses*, 24 Cal. 4th 1122, 1133 (2001) (emphasis in  
2 original).) Because of the importance of this case – protecting the most fundamental democratic  
3 right of the many thousands of voters in Santa Monica – Plaintiffs’ counsel spent the time necessary  
4 to ensure that their case was solid and would be presented fully and skillfully to the Court. In total,  
5 Shenkman & Hughes PC spent 7786.3 hours; the Parris Law Firm spent 3041.68 hours; the Law  
6 Offices of Milton C. Grimes spent 1291.5 hours; and the Law Offices of Robert Rubin spent 595.5  
7 hours. All of this was “reasonably necessary to the conduct of the litigation,” particularly in light of  
8 the potentially disastrous ramifications of cutting any corners. (*Robertson v. Fleetwood Travel*  
9 *Trailers of Cal., Inc.* (2006) 144 Cal.App.4<sup>th</sup> 785, 818; see also *Moreno v. City of Sacramento*, 534  
10 F.3d 1106, 1112 (9th Cir. 2008) [overturning fee reduction by the trial court: “It would ... be the  
11 highly atypical civil rights case where plaintiff’s lawyer engages in churning. By and large, the court  
12 should defer to the winning lawyer’s professional judgment as to how much time he was required to  
13 spend on the case; after all, he won, and might not have, had he been more of a slacker.”])

14 Furthermore, all of the work set out in the supporting declarations and exhibits are of the  
15 “type of work that would be billed to a client” in a typical hourly-fee matter. (*MBNA Am. Bank v.*  
16 *Gorman* (2006) 147 Cal.App.4<sup>th</sup> Supp. 1, at \*12 [affirming award where attorney time consisted  
17 “entirely of ordinary litigation activities, i.e., correspondence and telephone conferences with  
18 opposing counsel, legal research, drafting legal documents, reviewing opposing counsel’s filings, and  
19 preparation for and attending hearings.”].) While the majority of the civil cases handled by  
20 Plaintiffs’ counsel are accepted on a contingency basis, particularly Shenkman & Hughes PC also  
21 maintains clients who pay for legal services on an hourly-basis. The work set out in the time records  
22 of Shenkman & Hughes is exactly the sort that would be billed to its hourly-fee clients, and at the  
23 same hourly rates. (Shenkman Decl. ¶¶ 19, 24-25, Exs. L, M).

24 Furthermore, Plaintiffs’ counsel has exercised their “billing judgment” and opted not to seek  
25 compensation for time billed by attorneys whose involvement was minor, time for many tasks that  
26 took only a small amount of time, and for time that did not appear reasonably necessary to the  
27 litigation. (Shenkman Decl. ¶ 24; Parris Decl. ¶ 10; Rubin Decl. ¶ 27). This exercise in judgment  
28 has resulted in an overall reduction of approximately \$335,000 to the lodestar, with Shenkman &  
Hughes, the Parris Law Firm and Robert Rubin eliminating approximately 240 hours, 457 hours and  
20-25 hours from their billing, respectively. (*Id.*; *Greene v. Dillingham Constr. N.A., Inc.* (2002)  
101 Cal.App.4<sup>th</sup> 418, 422 [finding prevailing party’s claim for attorneys’ fees especially reasonable

1 where they exercised billing judgment and reduced hours sought].)

2 The verified time statements of the attorneys, all attached to the attorneys' declarations, are  
3 entitled to a presumption of credibility, which extends to an attorney's professional judgment as to  
4 whether time spent was reasonably necessary to the litigation. (*Horsford v. Board of Trustees of Cal.*  
5 *State Univ.* (2005) 132 Cal.App.4<sup>th</sup> 359, 396 [“We think the verified time statements of the attorneys  
6 as officers of the court are entitled to credence in the absence of a clear indication the records are  
7 erroneous.”].) Particularly, in a case of this magnitude and complexity, the number of hours spent by  
8 counsel is presumed to be reasonable because of the need for numerous attorneys to simultaneously  
9 work on multiple legal issues. (*Id.* at 397 [claimed hours found reasonable where they reflected  
10 “completely ordinary practice in a law firm handling a case of this magnitude.”].) While the  
11 magnitude of this case necessitated the involvement of multiple law firms, Plaintiffs' counsel took  
12 great care to minimize duplication of efforts – a single attorney (Mr. Shenkman) was responsible for  
13 delegating and overseeing all work and case strategy. (Shenkman Decl. ¶¶ 26-27). Indeed,  
14 Plaintiffs' counsel did not have the luxury of duplicating efforts; they had to be efficient to match the  
15 superior resources of Defendant's counsel.

16 To be sure, Plaintiffs have sought the opinions of two experts on attorneys fees – retired  
17 Court of Appeals justice, Margaret Grignon, and seasoned civil rights attorney Barrett Litt. Justice  
18 Grignon (Ret.) and Mr. Litt each reviewed the billing records submitted in support of this motion,  
19 and agree that the hours billed are reasonable. (Grignon Decl. ¶¶ 14-18; Litt Decl. ¶¶ 54-56)

20 Plaintiffs' counsel never sought to spend thousands of hours on this case; that proved to be  
21 required by the obstinate insistence of Defendant's self-interested council members that the  
22 discriminatory at-large election system remain. Plaintiffs' counsel laid out their case in a letter to  
23 Defendant and invited a dialogue four months before filing this case, coaxed Defendant to mediation  
24 by convincing a respected mediator to offer his services free-of-charge, and consistently and  
25 repeatedly urged Defendant to settle in both public and private remarks. (Shenkman Decl. ¶¶ 12-13,  
26 17, Exs. C, F). Nothing has convinced Defendant to settle.

27 It is also noteworthy that Defendant refuses to reveal the number of hours billed by its  
28 outside counsel (in addition to the time spent on this case by its accomplished in-house city  
attorneys) or the total amount it has spent in defending this case. (*Id.* at ¶¶ 28-30, Exs. N, O).  
Plaintiffs' counsel sought that information, but Defendant refused, as it had done when the local  
press sought the same information so that Santa Monica residents could exercise some civic

1 oversight of Defendant's wasteful spending to fight against its constituents' interests. (*Id.*)

2           2.     The Hourly Rates Sought by Plaintiffs' Counsel Are Reasonable.

3           A reasonable hourly rate for attorney time is measured by the "reasonable market value" of  
4 the attorney's services. (*MBNA Am. Bank*, 147 Cal. App. 4th supp. at 13, citing *Ketchum*, 24 Cal. 4th  
5 at 1139). That value is computed based on "a multiplicity of factors" such as the skill required of the  
6 attorney, the attorney's experience and reputation, time limitations and the amount at stake in the  
7 litigation, and the undesirability of the case. (*Ketchum*, 24 Cal. 4th at 1139). The hourly rates  
8 requested by Plaintiffs' attorneys are all based on their particular credentials – education, experience,  
9 and results achieved in other cases. As explained in the accompanying declarations, Plaintiffs'  
10 attorneys, have significant experience in complex litigation, including voting rights litigation.  
11 (Shenkman Decl. ¶¶ 2-9, 19-22, Ex. A; Parris Decl. ¶¶ 2-15, Exs. 1, 2; Grimes Decl. ¶¶ 2-11, Ex. 1;  
12 Rubin Decl. ¶¶ 2-23). Collectively, they have achieved some of the more notable trial victories in  
California over the past twenty-five years, both in voting rights and other areas of the law. (*Id.*)

13           The hourly rates of Plaintiffs' attorneys are further justified by the character of this particular  
14 case. This case affects the rights of a large number of voters in Santa Monica. Indeed, this case  
15 affects the most fundamental of democratic interests – the right to vote and have that vote result in  
16 the selection of representative leadership. (See *Reynolds v. Sims* (1964) 377 U.S. 533, 555 ["The  
17 right to vote freely for the candidate of one's choice is the essence of a democratic society."].) The  
18 U.S. District Court for the Central District of California recognized the complex nature, and need for  
19 exceptional counsel, in voting rights cases. (*Common Cause v. Jones* (C.D.Cal. 2002) 235 F.Supp.2d  
20 1076, 1081 ["[T]he legal issues were complex, multivariate and often novel ... . They also demanded  
21 a wide range of sophisticated statistical and technical competencies ... . In this context, it was  
22 reasonable for Plaintiffs to seek out the most competent and talented attorneys available, and for  
23 those attorneys to take central roles in litigating this case."].) In complex cases that bear on  
fundamental voting rights, "Plaintiffs' request for billing rates that are commensurate with the rates  
charged by other attorneys of comparable skill and reputation are reasonable." (*Id.*)

24           Finally, as detailed in the accompanying declarations, the rates requested by Plaintiffs'  
25 counsel represent their standard billing rates. (See, e.g. Shenkman Decl. ¶ 19) Therefore, those rates  
26 are presumed reasonable. (See, e.g., *Russell v. Foglio* (2008) 160 Cal.App.4th 653, 658, 661-62  
27 [attorney entitled to his standard billing rate despite opposing party's evidence that it was higher than  
28 typical]; *MBNA Am. Bank*, 147 Cal. App. 4th supp. at \*13 [upholding fee award based on attorneys'

1 normal billing rate]; *Mandel v. Lackner* (1979) 92 Cal. App. 3d 747, 761 [“The value of an attorney’s  
2 time generally is reflected in his normal billing rate.”], disapproved on other grounds by *Serrano v.*  
3 *Unruh*. 32 Cal. 3d 621 (1982).<sup>4</sup>

4 To be sure that their rates are appropriate. Plaintiffs sought the opinions of two experts on  
5 attorneys fees – retired Court of Appeals justice. Margaret Grignon, and seasoned civil rights  
6 attorney Barrett Litt. Justice Grignon (Ret.) and Mr. Litt are each familiar with the market for legal  
7 services in Los Angeles, and particularly in the field of civil rights and voting rights, and they agree  
8 the hourly rates of Plaintiffs’ counsel are reasonable. (Grignon Decl. ¶¶ 19-24; Litt Decl. ¶¶ 2-53)

9 Indeed, the hourly rates of Plaintiffs’ attorneys are uniformly *lower* than those of their  
10 counterparts representing Defendant, even though the conduct and outcome of this case has proven  
11 that Plaintiffs’ attorneys are no less skilled or effective. For example, though Defendant refused to  
12 reveal its attorneys’ billing rates, fee applications submitted in other cases demonstrate that the  
13 hourly rates of Mr. McRae, Mr. Thomson and Mr. Scolnick are all now well in excess of \$1000.  
14 (Shenkman Decl. ¶ 23, Ex. J). And, based on the fee schedules Defendant’s counsel have submitted  
15 in other cases, their other attorneys with similar experience to that of Plaintiffs’ respective attorneys  
16 bill at a much higher rate than Plaintiffs’ attorneys are requesting here. (*Id.* at ¶ 23, Ex. K). For  
17 instance: if Mr. Parris, Mr. Grimes and Mr. Rubin were at Gibson Dunn their billing rates would be  
18 approximately \$1495/hour; if Mr. Shenkman, Ms. Hughes and Mr. Jones were at Gibson Dunn their  
19 billing rates would be approximately \$1275/hour; and if Ms. Alarcon were at Gibson Dunn her  
20 billing rate would be approximately \$975/hour. (*Id.*).

21 **C. Plaintiffs’ Success in this Action, and the Applicable *Serrano* Factors, Warrant**  
22 **the Application of a Fee Multiplier.**

23 Once the court establishes the lodestar amount, it may enhance the fee award by a multiplier  
24 in order to make an appropriate fee award. (*Serrano*, 20 Cal. 3d at 48-49; *Press*, 34 Cal. 3d at 321-  
25 322). Several factors may be considered by the court in determining whether to augment the fee:

- 26 (1) the novelty and difficulty of the questions involved, and the skill displayed in presenting  
27 them;  
28 (2) the extent to which the nature of the litigation precluded other employment by the attorneys;

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29 <sup>4</sup> Earlier this year, the court in *Yumori-Kaku v. City of Santa Clara* approved Mr. Rubin’s rate of  
30 \$975 per hour. (Rubin Decl. ¶ 24).

1 (3) the contingent nature of the fee award, both from the point of view of eventual victory on the  
2 merits and the point of view of establishing eligibility for an award;  
3 (4) the result obtained by the litigation;  
4 (5) any delay in receipt of payment; and  
5 (6) the public impact of the litigation.  
6 (*Serrano*, 20 Cal.3d at 48-49; also see *Chavez v. Netflix, Inc.*, 162 Cal.App.4<sup>th</sup> 43, 66 [affirming  
7 multiplier of 2.5, and citing authority that “multipliers can range from 2 to 4 or even higher.”]; *City*  
8 *of Oakland v. Oakland Raiders* (1988) 203 Cal. App. 3d 78, 83 [multiplier of 2.34].) Though all of  
9 these factors, and others, can be considered, the contingent nature of a case alone justifies application  
10 of a positive multiplier. (See *Center for Biological Diversity v. County of San Bernardino* (2010) 185  
11 Cal.App.4<sup>th</sup> 866, 897 [affirming 1.5 multiplier based on contingent risk alone]; *Bernardi v. County of*  
12 *Monterey* (2008) 167 Cal.App.4<sup>th</sup> 1379, 1399.)<sup>5</sup> Particularly where, as here, a plaintiff prevails by  
13 judgment after trial, a fee multiplier is generally appropriate, because the *Serrano* factors tend to  
14 militate for a significant multiplier. Here, Plaintiffs request a multiplier of 2.25.

15 1. This Case Presented Novel And Complex Issues, Which Required Extraordinary Skill  
16 On The Part of Plaintiffs' Counsel.

17 As this Court is no doubt aware, this case presented novel and complex issues – even more so  
18 than most CVRA cases, which are already inherently complex. The novel and complex nature of this  
19 case, together with the skill displayed in litigating these issues, favors enhancement of the fee award.  
20 (*Serrano*, 20 Cal. 3d at 49).

21 Defendant’s pleading challenges, writ petitions, summary judgment motion, motions *in*  
22 *limine* and closing brief presented a host of issues of first impression concerning, among other  
23 things: the elements of a CVRA claim; the test for vote dilution under the CVRA; the  
24 constitutionality of the CVRA; the level of specificity required to plead a CVRA claim; whether  
25 discriminatory impact must be shown for an equal protection claim and, if so, what constitutes  
26 discriminatory impact; how discriminatory intent is shown; and whether maintenance of an at-large

27 <sup>5</sup> The lodestar should not be reduced on the basis of taxpayer burden, as Defendant may claim,  
28 particularly when such burden it is outweighed by factors favoring augmentation. See *Citizens*  
*Against Rent Control v. City of Berkeley* (1986) 181 Cal. App. 3d 213, 235. Further, by creating in  
the CVRA a cause of action that in every case will be brought against a governmental entity and  
authorizing attorneys’ fees for prevailing plaintiffs, the Legislature clearly understood that taxpayers  
ultimately would pay the fee award. Reducing a fee award because Defendant is a taxpayer-  
supported entity would thus amount to a contravention of legislative intent.



1 election system without racial animus vitiates the discriminatory intent with which it was previously  
2 adopted or maintained. This case was also complex due to the necessity of using historical data and  
3 advanced statistical analyses in order to establish racially polarized voting patterns. (See, e.g.,  
4 *Common Cause*, 235 F. Supp.2d at 1081 [noting complexity of case due to its demand of statistical  
5 competency].) Particularly because of the paucity of legal authority addressing the CVRA, this case  
6 was more complex and challenging than any contract or personal injury dispute or even other civil  
7 rights litigation. To address the legal issues raised by this case, Plaintiffs were required to synthesize  
8 the significant body of law concerning the federal Voting Rights Act (“FVRA”) and Equal  
9 Protection Clause of the U.S. Constitution with the sometimes significantly different CVRA and  
10 Equal Protection Clause of the California Constitution, about which there is less published authority.

11 The extraordinary skill on the part of Plaintiffs’ counsel is best demonstrated by the  
12 exceptional result they achieved, facing off against the superb attorneys of Gibson Dunn & Crutcher.  
13 Not only was Defendant’s at-large election scheme found to violate the CVRA and Equal Protection  
14 Clause of the California Constitution (the first case ever to do so), this Court ultimately adopted  
15 every aspect of what Plaintiffs proposed as a remedial plan. While this result is firmly supported by  
16 the law and the particular circumstances of this case, Plaintiffs’ ability to achieve that result  
17 demonstrates their attorneys’ skill.

18 2. The Exceptional Result Achieved By Plaintiffs’ Counsel Warrants a Fee Enhancement.

19 The lodestar may also be enhanced when “an exceptional effort produced an exceptional  
20 benefit.” (*Graham*, 34 Cal. 4th at 582). In this case, the result – preventing any further illegal  
21 elections and imposing prompt district-based elections based on Plaintiffs’ proposed district map - is  
22 truly an exceptional result. Indeed, obtaining a judicial declaration that Defendant’s adoption and  
23 maintenance of at-large elections violate the Equal Protection Clause of the California Constitution is  
24 the definition of “exceptional” – no other litigant has ever achieved that result. That exceptional  
25 result was only possible because of the exceptional effort of Plaintiffs’ counsel.

26 3. Representation Of Plaintiffs Carried With It The Substantial Risk That Counsel Would  
27 Receive No Compensation For Their Legal Services.

28 Plaintiffs’ attorneys all undertook representation of Plaintiffs in this costly and time-  
consuming case on a *pro bono* basis. It is well established that enhancement of the lodestar is  
necessary to account for such risk. (See *Serrano*, 20 Cal. 3d at 49). Courts have held that *pro bono*  
representation like that undertaken here is analogous to contingency representation (see *Cruz v.*

1 *Ayromloo* (2007) 155 Cal. App. 4<sup>th</sup> 1270, 1279 & n.23); and “[a] contingent fee must be higher than  
2 a fee for the same legal services paid as they are performed. The contingent fee compensates’ the  
3 lawyer not only for the legal services he renders but for the loan of those services.” (*Ketchum*, 24  
4 Cal.4<sup>th</sup> at 1132). Legal services provided on a contingent or *pro hono* basis, with the hope of being  
5 paid upon a favorable litigation outcome, also inherently involve delay in receipt of payment, further  
6 justifying an enhancement of Plaintiffs’ lodestar. (See *Graham*, 34 Cal.4<sup>th</sup> at 579). Courts have  
7 additionally noted that, “an enhancement of the lodestar amount to reflect the contingency risk is  
8 ‘one of the most common fee enhancers’.” (*Bernardi v. County of Monterey* (2008) 167 Cal.App.4<sup>th</sup>  
9 1379, 1399). More recently, the California Court of Appeals affirmed the application of a multiplier  
10 of 1.5 based solely on the contingent risk. (See *Center for Biological Diversity v. County of San*  
11 *Bernardino* (2010) 185 Cal.App.4<sup>th</sup> 866, 897). “The purpose of a fee enhancement, or so-called  
12 multiplier, for contingent risk is to bring the financial incentives for attorneys enforcing important  
13 constitutional rights into line with incentives they have to undertake claims for which they are paid  
14 on a fee-for-services basis.” (*Ketchum*, *supra* at 1132).

14 Here, Plaintiffs’ counsel faced a significant risk of receiving no compensation for their work.  
15 While the judgment is well supported by the facts and law, the result was far from guaranteed.  
16 Indeed, the actions and remarks of Defendant, its council members and its attorneys all confirm that  
17 this case carried significant risk. Defendant obstinately refused to engage in serious settlement  
18 discussions because, according to Defendant’s city attorney, she “just do[es]n’t see any merit in this  
19 case.” (Shenkman Decl. ¶¶ 17-18, Exs. F, G). In an interview with Law.com published the first day  
20 of trial, Defendant’s outside attorneys confidently boasted, “We feel really good about our case on  
21 the merits here ... if Santa Monica fails the CVRA test, then no city could pass.” (*Id.* at ¶ 18, Ex. G).  
22 Three weeks before trial, Defendant’s mayor and mayor pro tem proclaimed in the Los Angeles  
23 Times that this case “lacks merit” and boasted that they could fight the case because of Defendant’s  
24 exceptional “financial resources”; and in her trial testimony Defendant’s mayor, Glean Davis, called  
25 this case “ridiculous.” (*Id.* at Ex. B; Trial Tr. 4401 :1-2). Even some voting rights attorneys declined  
26 to join Plaintiffs’ counsel in this case due to the risk. (Shenkman Decl. ¶ 18) Had Defendant’s  
27 assessment of this case been correct, or any number of Defendant’s arguments been accepted by the  
28 Court, Plaintiffs’ counsel may have gone uncompensated. Having provided legal services at the  
substantial risk of not being compensated at all, Plaintiffs’ attorneys should have their lodestar  
enhanced accordingly.

1                   4. This Case Precluded Other Employment of Plaintiffs' Counsel.

2                   This case, and the burden of being responsible for the voting rights of thousands of minority  
3 residents in Santa Monica and many more throughout the State, has demanded a tremendous  
4 expenditure of time, particularly for a small firm like Shenkman & Hughes. But it is not just the  
5 amount of time and resources that has precluded other work by Plaintiffs' attorneys. This case has  
6 received significant media attention and has been, to say the least, unpopular among the business and  
7 political community of Santa Monica and Malibu – the market location of Shenkman & Hughes PC.  
8 Immediately after this case was filed, Defendant made sure that this case would take a toll on  
9 Shenkman & Hughes' relationships in its community, carrying out its personal retaliation against  
10 Plaintiffs' counsel in an area unrelated to this case, with no possible purpose other than to damage  
11 Plaintiffs' counsel's relationships with their neighbors. (See *id.* at ¶ 14). That episode set the tone  
12 for the duration of this case, and as this case progressed and Defendant was unable to defeat  
13 Plaintiffs in court on the merits, Defendant and its proxies took to disparaging Plaintiffs' counsel in  
14 the press and at its city council meetings. Shenkman & Hughes is now inextricably linked with this  
15 case in the view of the Santa Monica and Malibu business and political community, and therefore it  
16 is unlikely that Shenkman & Hughes will ever again represent established businesses within that  
17 community. For that reason too, Plaintiffs' lodestar should be enhanced by a significant multiplier

18                   5. Plaintiffs' Litigation Has Had a Broad Public Impact.

19                   Finally, Plaintiffs' fee award also should be increased to reflect the broad impact this case has  
20 had. "California's Supreme Court implicitly found that it would be appropriate to enhance an award  
21 by means of a multiplier 'to reflect the broad public impact of the results obtained.'" (*Weeks v. Baker*  
22 & *McKenzie* (1998) 63 Cal. App. 4th 1128, 1172, quoting *Press*, 34 Cal. 3d at 322). Appellate  
23 courts have affirmed multipliers on this basis. (See, e.g., *Edgerton v. State Pers. Bd.*, 83 Cal. App.  
24 4th 1350, 1363 (2000) [affirming multiplier based in part on "importance of the privacy rights that  
25 were vindicated by the Injunction" obtained]; *Coalition for L.A. County Planning Etc. Interest v. Bd.*  
26 *of Supervisors*, 76 Cal. App. 3d 241,251 (1977) [affirming multiplier of fee award based in part on  
27 "importance of the suit, and the public nature of plaintiff's position"].) More generally, California  
28 courts have recognized the importance and public impact of voting rights cases. (See, e.g., *In re*  
*Adoption of Joshua S.* (2008) 42 Cal. 4th 945, 957 n.4 ["[E]lection law litigation inherently  
implicates public rights".])

Plaintiffs' litigation has vindicated the public's right under the CVRA and Equal Protection

1 Clause to an election system which does not unfairly dilute their voice through use of at-large  
2 elections, or any election system adopted with a racially-discriminatory intent. (See *Reynolds*, 377  
3 U.S. at 555 ["[T]he right of suffrage can be denied by a debasement or dilution of the weight of a  
4 citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise."].) Not  
5 only has this case had a broad impact on the voting rights of tens of thousands of Santa Monica  
6 voters, it also serves to demonstrate to other political subdivisions that clinging to discriminatory  
7 election systems is not advisable, and this case has already had precisely that effect as more political  
8 subdivisions are voluntarily adopting district elections without the need for expensive lawsuits.  
9 (Shenkman Decl. ¶ 18, Ex. 1). In light of the broad public impact of this case, and the importance of  
the rights vindicated, a significant lodestar multiplier is appropriate.

#### 10 IV. PLAINTIFFS ARE ENTITLED TO RECOVER THEIR EXPENSES.

11 For the same reasons as Plaintiffs are entitled to their reasonable attorneys' fees, they are also  
12 entitled to recover their expenses. See Elec. Code § 14030 ("In any action to enforce Section 14027  
13 and Section 14028, the court shall allow the prevailing plaintiff party ... litigation expenses  
14 including, but not limited to, expert witness fees and expenses as part of the costs.") The expenses  
15 incurred by Plaintiffs' counsel in this case up to entry of judgment - \$905,725.14, most of which is  
16 the fees of Plaintiffs' team of renowned expert witnesses - are all detailed in the declarations of  
17 Plaintiffs' counsel, and are the type of expenses which lawyers generally bill their clients separately  
18 (Shenkman Decl. ¶¶ 34-36, Exs. P, Q; Parris Decl. ¶¶ 19-33, Exs. 5-19; Grimes Decl. ¶ 14, Ex. 5;  
19 Rubin Decl. ¶ 29, Exs. 2, 3; *Bussey v. Affleck* (1990) 225 Cal. App. 3d 1162 [reversing trial court's  
20 disallowance of expenses for "messenger and express mail charges; telephone bills; travel expenses  
21 for mileage, tolls and parking; [etc.]."]) Though Plaintiffs do not seek a multiplier to be applied to  
22 their expenses, those significant expenses were incurred by Plaintiffs' counsel without any guarantee  
23 they would ever be reimbursed. If Plaintiffs had not prevailed, they would have expended both their  
time and resources for naught. Certainly, now that Plaintiffs have prevailed, they are entitled to  
recover their expenses.

24 Plaintiffs have also included these same expenses in their Memorandum of Costs. In its  
25 Motion to Tax Costs, Defendant argues that much of Plaintiffs' expenses are not recoverable through  
26 a Memorandum of Costs because they are not enumerated in Code of Civil Procedure section 1033.5.  
27 Whether Plaintiffs' expenses are recoverable through this motion or, alternatively, through their  
28 memorandum of costs, the result is the same - Plaintiffs are entitled to recover those expenses. (See

1 Elec. Code 14030)<sup>6</sup> In any event, to be safe, Plaintiffs seek to recover their expenses through this  
2 motion as well. (Cf. *Henry v. Webermeier* (7<sup>th</sup> Cir. 1984) 738 F.2d 188, 192 [“the line between fees  
3 and expenses is arbitrary.”]; *Cal. Recreation Indus. v. Kierstead* (1988) 199 Cal. App. 3d 203, 209  
4 [finding no prejudice to defendant where plaintiff sought an award of attorneys’ fees through a  
5 memorandum of costs rather than a noticed motion].)

6 **V. CONCLUSION**

7 Plaintiffs’ efforts have achieved extraordinary results that could only be achieved through  
8 skilled legal representation. Such representation is often only made possible by fee-shifting statutes  
9 such as the one found in the CVRA and section 1021.5 of the Code of Civil Procedure. Plaintiffs’  
10 lodestar amounts are reasonable, and Defendant has only itself to blame for necessitating thousands  
11 of hours of attorney time to eliminate its illegal racially-discriminatory at-large election system.  
12 Further, the extraordinary risk assumed by Plaintiffs’ counsel, the broad public interest of this matter  
13 and all other factors support application of a significant multiplier to Plaintiffs’ lodestar amounts.  
14 Accordingly, Plaintiffs request, based on a multiplier of 2.25, an award of \$13,419,398.25 to  
15 Shenkman & Hughes PC, \$4,380,806.25 to the Parris Law Firm, \$2,342,463.75 to the Law Offices  
16 of Milton C. Grimes, and \$1,278,676.13 to the Law Office of Robert Rubin, as well as expenses in  
17 the amount of \$905,725.14.

18 Respectfully submitted,

19 DATED: June 3, 2019

By:

  
Kevin I. Shenkman

22 <sup>6</sup> See also *Anthony v. City of Los Angeles* (2008) 166 Cal. App. 4<sup>th</sup> 1011, 1017 [rejecting defendant’s  
23 argument that recoverable costs are limited to those enumerated in section 1033.5 of the Code of  
24 Civil Procedure because the Fair Employment and Housing Act (like the CVRA) provides for the  
25 recovery of expenses beyond those allowable under Section 1033.5]; *Henry v. Webermeier* (7<sup>th</sup> Cir.  
26 1984) 738 F.2d 188 [reversing trial court’s ruling that “plaintiffs were not entitled to reimbursement  
27 of any out-of-pocket expenses other than statutory costs” because the Civil Rights Act (much like the  
28 CVRA) requires that all litigation expenses be awarded to a prevailing plaintiff: “The Act seeks to  
shift the cost of the winning party’s lawyer (in cases within the scope of the Act) to the losing party;  
and that cost includes the out-of-pocket expenses for which lawyers normally bill their clients  
separately, as well as fees for lawyer effort. The Act would therefore fall short of its goal if it  
excluded those expenses.”]

# Exhibit E

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21 Telephone: 213.229.7000  
22 Facsimile: 213.229.7520

23 Attorneys for Defendant  
24 CITY OF SANTA MONICA

25 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

26 **FOR THE COUNTY OF LOS ANGELES**

27 PICO NEIGHBORHOOD ASSOCIATION and  
28 MARIA LOYA,

Plaintiffs,

v.

CITY OF SANTA MONICA,

Defendant.

CASE NO. BC 616804

**STIPULATION AND [PROPOSED]  
ORDER REGARDING (1) PLAINTIFFS'  
MEMORANDUM OF COSTS;  
(2) DEFENDANT'S MOTION TO  
STRIKE/TAX MEMORANDUM OF  
COSTS; AND (3) PLAINTIFFS' MOTION  
FOR ATTORNEYS' FEES**

Complaint Filed: Apr. 12, 2016  
Trial Date: Aug. 1, 2018  
Judgment Entered: Feb. 13, 2019  
Dep't: 9

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1 STIPULATION

2 Plaintiffs Maria Loya and the Pico Neighborhood Association and Defendant City of Santa  
3 Monica (collectively, the “Parties”) hereby stipulate and agree as follows:

4 WHEREAS, this Court entered judgment in this matter on February 13, 2019; paragraph 11 of  
5 the judgment states that “Plaintiffs are the prevailing and successful parties and are entitled to recover  
6 reasonable attorneys’ fees and costs, including expert witness fees and expenses, in an amount to be  
7 determined by noticed motion for an award of attorneys’ fees and a memorandum of costs for an  
8 award of costs, including expert witness fees and expenses”;

9 WHEREAS, the City filed a notice of appeal from the judgment on February 22, 2019;

10 WHEREAS, Plaintiffs filed a memorandum of costs on March 28, 2019;

11 WHEREAS, on April 8, 2019, the Parties stipulated to a schedule for the filing and briefing of  
12 a motion for attorneys’ fees by Plaintiffs;

13 WHEREAS, on April 12, 2019, the City filed a motion to strike Plaintiffs’ memorandum of  
14 costs or, in the alternative, to tax costs (“Motion to Strike/Tax”);

15 WHEREAS, Plaintiffs filed a motion for attorneys’ fees (the “Fee Motion”) on June 3, 2019;

16 WHEREAS, briefing on the City’s Motion to Strike/Tax was completed on June 18, 2019;

17 WHEREAS, the parties stipulated, and the Court ordered, that the City would file its opposi-  
18 tion to the Fee Motion no later than July 31, 2020, and that the Court would hear the Motion to  
19 Strike/Tax on September 16, 2020, and the Fee Motion on September 23, 2020;

20 WHEREAS, on July 9, 2020, the Court of Appeal issued its opinion reversing this Court’s  
21 judgment in its entirety (*Pico Neighborhood Association et al. v. City of Santa Monica* (2020) --  
22 Cal.App.5th --, 2020 WL 3866741);

23 WHEREAS, Plaintiffs filed a Petition for Rehearing in the Court of Appeal on July 24, 2020,  
24 and intend to file a Petition for Review in the California Supreme Court in the event that the Petition  
25 for Rehearing is denied; and

26 WHEREAS, based on the appellate proceedings, the Parties acknowledge that Plaintiffs are  
27 not presently entitled to recover fees or costs as “prevailing parties,” but may be so entitled if the July  
28



1 9, 2020 opinion of the Court of Appeal is reversed or modified, so the Parties desire to take the hear-  
2 ings set for September 16 and 23, 2020, off calendar, to be rescheduled (and briefing on the Fee Mo-  
3 tion completed) in the event this Court's judgment is affirmed in whole or in part.

4 NOW, THEREFORE, THE PARTIES STIPULATE AND AGREE AS FOLLOWS:

5 (1) Plaintiffs take their Fee Motion off calendar, and will seek to re-schedule a hearing on  
6 the Fee Motion—and to establish a briefing schedule that gives the City at least 30 days to prepare  
7 and file an opposition to that motion, and that gives Plaintiffs at least 20 days to prepare and file a re-  
8 ply in support of the motion—if appropriate based on further appellate rulings in this action; and

9 (2) The City takes its Motion to Strike/Tax off calendar, and will seek to re-schedule the  
10 Motion to Strike/Tax if appropriate based on further appellate rulings in this action.

11  
12 STIPULATED AND AGREED

13  
14 DATED: July 30, 2020

\_\_\_\_\_ /s/ Kevin Shenkman  
Attorneys for Plaintiffs Pico Neighborhood Association  
and Maria Loya

15  
16  
17 DATED: July 30, 2020

\_\_\_\_\_ /s/ Kahn Scolnick  
Attorneys for Defendant City of Santa Monica

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**[PROPOSED] ORDER**

Based on the above stipulation of the Parties, and good cause appearing, the Court hereby ADOPTS the stipulation and ORDERS as follows:

- (1) The September 23, 2020 hearing on Plaintiffs' Fee Motion is taken off calendar, subject to the terms set forth in the Parties' stipulation;
- (2) The September 16, 2020 hearing on the City's Motion to Strike/Tax is taken off calendar, subject to the terms set forth in the Parties' stipulation;
- (3) In the event further appellate rulings in this action result in this Court's judgment being affirmed, either in whole or in part, the Parties shall contact the Court to reschedule the Fee Motion and the Motion to Strike / Tax, and shall confer regarding a schedule for the further briefing of the Fee Motion, provided that any briefing schedule shall give the City at least 30 days to prepare and file an opposition to the Fee Motion, and it shall give Plaintiffs at least 20 days to prepare and file a reply in support of that motion.

IT IS SO ORDERED.

DATED: \_\_\_\_\_, 2020

\_\_\_\_\_  
Judge of the Superior Court

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**PROOF OF SERVICE**

I, Daniel R. Adler, declare:

I am employed in the County of Los Angeles, State of California. My business address is 333 South Grand Avenue, Los Angeles, California 90071. I am over the age of eighteen years and not a party to the action in which this service is made.

On July 30, 2020, I served the

**STIPULATION AND [PROPOSED] ORDER REGARDING (1) PLAINTIFFS' MEMORANDUM OF COSTS; (2) DEFENDANT'S MOTION TO STRIKE/TAX MEMORANDUM OF COSTS; AND (3) PLAINTIFFS' MOTION FOR ATTORNEYS' FEES**

on the interested parties in this action by causing the service delivery of the above document as follows:

Kevin I. Shenkman, Esq.  
Mary R. Hughes, Esq.  
SHENKMAN & HUGHES PC  
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- BY MAIL:** I caused a true copy to be placed in a sealed envelope addressed as indicated above, on the above-mentioned date. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.
- BY ELECTRONIC SERVICE:** I also caused the documents to be emailed to the persons at the electronic service addresses listed above.

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

Executed on July 30, 2020, in Los Angeles, California.



\_\_\_\_\_  
Daniel R. Adler

# Exhibit F

Court of Appeal, Second Appellate District, Division Eight - No. B295935 OCT 21 2020  
S263972

**IN THE SUPREME COURT OF CALIFORNIA** Jorge Navarrete Clerk  
En Banc

Deputy

PICO NEIGHBORHOOD ASSOCIATION et al., Plaintiffs and Respondents,

v.

CITY OF SANTA MONICA, Defendant and Appellant.

The petition for review is granted. The parties are ordered to brief the following issue: What must a plaintiff prove in order to establish vote dilution under the California Voting Rights Act?

On the Court's own motion, the Court of Appeal's Opinion is ordered depublished. On the court's own motion, the Reporter of Decisions is directed not to publish in the Official Appellate Reports the opinion in the above-entitled appeal filed July 9, 2020, which appears at 51 Cal.App.5th 1002. (Cal. Const., art. VI, section 14; Cal. Rules of Court, rule 8.1125.)

Cantil-Sakauye

*Chief Justice*

Corrigan

*Associate Justice*

Liu

*Associate Justice*

Cuéllar

*Associate Justice*

Kruger

*Associate Justice*

Groban

*Associate Justice*

Associate Justice