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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

PICO NEIGHBORHOOD ASSOCIATION and MARIA LOYA,

Plaintiffs,

v.

CITY OF SANTA MONICA, and DOES 1 through 100, inclusive,

Defendants.

CASE NO. BC616804

PLAINTIFFS' REPLY IN SUPPORT OF MOTION TO REISSUE JUDGMENT CONSISTENT WITH GUIDANCE FROM THE CALIFORNIA SUPREME COURT

Date.: August 8, 2024
Time: 8:30 a.m.
Dept.: 71

I. INTRODUCTION

Defendant offers scant opposition to the request that the court reissue judgment. Indeed, the only way Defendant can support its resistance is by disregarding the detailed 71-page Statement of Decision ("SOD") issued by this Court after a six-week trial. Only by disregarding that Statement of Decision, and all of the findings therein, can Defendant claim any entitlement to the "do-over" it now seeks. But this Court's findings remain valid and undisturbed after four years of appellate proceedings, and thus, no second trial is necessary or warranted.

Defendant does not dispute how this Court's Statement of Decision compares to the California Supreme Court's opinion. As detailed at pages 4-9 of Plaintiffs' Motion to Reissue Judgment ("Motion"), the Statement of Decision addresses all of the factors the California Supreme Court later instructed courts to consider in deciding whether at-large elections dilute the vote of minority communities in violation of the California Voting Rights Act ("CVRA"), and its analysis mirrors that later elucidated by the California Supreme Court. It is that comparison that guides courts addressing similar procedural circumstances in voting rights cases. Where, as here, the previous decision is consistent with the intervening Supreme Court authority, the correct path is to re-issue the judgment, and allow the parties to do as they may on appeal.

II. DEFENDANT DISREGARDS THIS COURT'S STATEMENT OF DECISION AND ITS FINDINGS, AND ASKS THIS COURT TO DO THE SAME.

In their Motion (pp. 4-9), Plaintiffs detail how this Court's Statement of Decision addresses every facet of the test for vote dilution the California Supreme Court announced in *Pico Neighborhood Ass'n v. City of Santa Monica* (2023) 15 Cal.5th 292, ("*Pico*"), and concludes as the California Supreme Court would later acknowledge – "that the City's at-large voting system unlawfully diluted the electoral strength of its Latino residents within the meaning of the CVRA." (*Pico* at 309.) This Court's Statement of Decision addresses exactly what the California Supreme Court identified as relevant to vote dilution: the import of Defendant's electoral history (*Pico* at 308; SOD, pp. 18-21, 39, 66); social, economic and political circumstances and history, including the factors listed in Elections Code section 14028(e) (*Pico* at 308, 320, 324; SOD, pp. 32-38, 67); the experiences of similar jurisdictions (*Pico* at 321, 324; SOD, p. 66); and the impact of potential non-district remedies (*Pico* at 320-321; SOD, pp. 38-39, 65.). None of those findings have been reversed, overruled or otherwise disturbed by any appellate court. While the Court of Appeal ruled that Plaintiffs could not show vote dilution because Latinos in Santa Monica are not sufficiently numerous or compact to comprise the

majority of voters in a councilmanic district, the California Supreme Court reversed the Court of Appeal's ruling. (*Pico*, 15 Cal.5th at 307, 325 ["[T]he Court of Appeal relied on an incorrect legal standard to conclude that plaintiffs had failed to satisfy the dilution element of their CVRA claim."].)

Defendant's Opposition largely ignores all of that, and instead invites this Court to disregard the Statement of Decision because it was issued by a different judge than the one presiding over the case now (see Opposition, p. 13) – something a long line of California and federal cases counsel against. *In re Alberto* (2002) 102 Cal.App.4th 421 summed it up best:

> For one superior court judge, no matter how well intended, even if correct as a matter of law, to nullify a duly made, erroneous ruling of another superior court judge places the second judge in the role of a one-judge appellate court. The Superior Court of Los Angeles County, though comprised of a number of judges, is a single court and one member of that court cannot sit in review on the actions of another member of that same court. Stated slightly differently, because a superior court is but one tribunal, an order made in one department during the progress of a cause can neither be ignored nor overlooked in another department. This principle is … designed to ensure the orderly administration of justice. If the rule were otherwise, it would be only a matter of days until we would have a rule of man rather than a rule of law.

(*Id*. at 427-428 (citations and quotations omitted), collecting cases; also see *In re Marriage of Oliverez* (2015) 238 Cal.App.4th 1242, 1249 ["Mere disagreement, as here, with the prior trial judge's ruling [] is not enough to overturn that ruling."]; *Arizona v. California* (1983) 460 U.S. 605, 619 ["a fundamental precept of common-law adjudication is that an issue once determined by a competent court is conclusive. To preclude parties from contesting matters that they have had a full and fair opportunity to litigate protects their adversaries from the expense and vexation attending multiple lawsuits, conserves judicial resources, and fosters reliance on judicial action by minimizing the possibility of inconsistent decisions."].)

Defendant points to *People v. Sons* (2008) 164 Cal.App.4th 90 as support for its view that this Court should wholesale re-examine all of Judge Palazuelos' findings and rulings. But *People v. Sons* does not support Defendant's position at all. Rather, in *People v. Sons* the prior trial court ruling preceded the court declaring a mistrial. (*Id*. at 99.) The appellate court reasoned that "the effect of a declaration of a mistrial is as if there had been no trial on that issue," thus "such [a] declaration has the included effect of vacating previous trial court rulings," and "thus, there [were] no extant rulings to overrule." (*Id*.) Here, of course, there was no mistrial – the Statement of Decision was issued after a

six-week trial, and reflects the final findings and rulings of this Court – and *People v. Sons* does not reflect a rejection of the unbroken line of cases that confirm "one member of [the Los Angeles Superior] court cannot sit in review on the actions of another member of that same court." (*In re Alberto*, supra.)

Consistent with its invitation for this Court to disregard the Statement of Decision, Defendant devotes a large portion of its Opposition (pp. 13-17) to arguing that the Statement of Decision was wrong. According to Defendant, "there is no legally significant racially polarized voting … in Santa Monica" and "no other election system would deliver a net gain in Latino voting power" (Opposition, p. 13), exactly as it previously argued in its closing brief following trial. But this Court has already found the exact opposite – that the relevant elections are "the prototypical illustration of legally significant racially polarized voting" (SOD, p. 20), and "the evidence [] demonstrates dilution by the standard proposed by Defendant in its closing brief – 'that some alternative method of election would enhance Latino voting power.'" (SOD, p. 38). Suffice it to say, at this stage, that Defendant's view is contrary to the factual findings of this Court and contrary to the law, as explained by this Court in its Statement of Decision. Plaintiffs should not be required to re-argue, and this Court should not be required to re-decide, findings already made by this Court following a six-week trial.

III. ON REMAND FOLLOWING AN INTERVENING SUPREME COURT DECISION, VOTING RIGHTS COURTS BEGIN WITH A COMPARISON OF THEIR PREVIOUS FINDINGS TO THE INTERVENING AUTHORITY – EXACTLY WHAT PLAINTIFFS PRESENT IN THEIR MOTION

Plaintiffs are not asking this Court to "reflexively and uncritically reinstate" the judgment, as Defendant criticizes (Opposition, p. 13.) Rather, Plaintiffs are asking this Court to do exactly what other voting rights courts have done when faced with similar procedural circumstances – compare the Statement of Decision to the intervening Supreme Court authority, and reissue the judgment if the Statement of Decision is consistent with that intervening Supreme Court authority.

As discussed more fully at pages 4-7 of Plaintiffs' Opposition to Defendant's "Motion Regarding Further Proceedings," that is the normal course when a voting rights case is remanded to a trial court post-trial for consideration of intervening Supreme Court authority. The three-judge district court's decision in *King v. State Board of Elections* (N.D.Ill. 1997) 979 F.Supp. 619 is directly on point. The district court originally found the challenged district map was constitutional. (*King v. State Board of Elections* (N.D.Ill. 1996) 1996 WL 913660, No. 95-C827.) The U.S. Supreme Court vacated the district court's judgment, and remanded for reconsideration in light of the intervening decisions in

Shaw v. Hunt (1996) 517 U.S. 899 and *Bush v. Vera* (1996) 517 U.S. 952. (See *King v. Illinois Bd. of Elections* (1996) 519 U.S. 978.) "Upon remand," the party who lost the original proceeding "filed a motion for an additional evidentiary hearing" to introduce new evidence of, among other things, "data of recent victories by African-American congressmen." (*King*, 979 F.Supp. at 620, fn. 1.) The district court acknowledged that the U.S. Supreme Court's decisions in *Shaw* and *Bush* had "markedly changed and elucidated the landscape of voting rights litigation." (*Id*. at 620.) Still, the district court denied the attempt to re-open the evidence, and then denied the motion for reconsideration. (*Id*.) Rather, the court determined its previous factual findings were "in accord with *Shaw* [] and *Bush*" and thus there was "no additional examination [] required" and "no need to reopen the record and conduct an additional evidentiary hearing." (*Id*. at 620-621.) Finally, the U.S. Supreme Court affirmed. (*King v. Illinois Bd. of Elections* (1998) 522 U.S. 1087.) That same path has been followed by other courts addressing voting rights cases in similar circumstances. (See, e.g. *Page v. Va. State Bd. of Elections* (E.D.Va. 2014) 58 F.Supp.3d 533, vacated sub nom. *Cantor v. Personhuballah* (2015) 135 S.Ct. 1699, reissuing opinion AT *Page v. Va. State Bd. of Elections* (E.D.Va. June 5, 2015) 2015 WL 3604029, No. 3:13CV678; *Dickson v. Rucho* (2014) 367 N.C. 542, reissuing opinion at (2015) 368 N.C. 481.)

As more fully discussed at pages 7-10 of Plaintiffs' Opposition to Defendant's "Motion Regarding Further Proceedings," the cases cited by Defendant[1] that took a different, more time-consuming and laborious approach they acknowledge is "not common," did so because of the peculiar circumstances presented in those cases, not even remotely present here, such as the paucity or nonexistence of analyzable minority vs. majority elections for the governing board at issue. (*Jenkins*, 4 F.3d at 1136.) Where, as here, a trial court has already examined a sufficient number of such elections, re-opening the evidence to consider post-trial elections or second-guessing the court's previous findings is inappropriate. As detailed in the Motion, the court in *Missouri State Conf. of the NAACP v. Ferguson-Florissant Sch. Dist.* (E.D. Mo. 2016) 219 F.Supp.3d 949 explained why, with reasoning even more forceful under the CVRA – nothing about post-trial elections can change the outcome, but consideration of such elections would result in indefinite delay. (*Id*. at 954; Elec. Code § 14028(a).) While Defendant attempts to distinguish *Missouri NAACP* (see Opposition, p. 15), its distinction ignores what that court actually said. The *Missouri NAACP* court rejected the defendant's effort to re-

[1] *Vecinos de Barrio Uno v. City of Holyoke* (1st Cir. 1995) 72 F.3d 973, (D.Mass. 1997) 960 F.Supp. 515; *Westwego Citizens for Better Gov't v. City of Westwego* (5th Cir. 1990) 906 F.2d 1042; and *Jenkins v. Red Clay Consolidated Sch. Dist. Bd. of Ed.* (3d Cir. 1993) 4 F.3d 1103, (D.Del. Apr. 10, 1996) 1996 WL 172327

open the evidence for consideration of post-trial elections not just because plaintiffs had not had a chance to respond, as Defendant claims. (Compare Opposition, p. 15 with *Missouri NAACP* at 954 ["A finding of proportional representation at this moment would not, standing alone, negate my liability finding. … If I were to reopen the case again and give them the chance to do so, we would necessarily extend the case, perhaps past the next election, and then there would seem to be no reason not to reopen the case again to include those results, and so on."].) If the *Missouri NAACP* court's only objection to considering post-trial elections was that the plaintiffs had not had an opportunity to respond, the court could have invited the plaintiffs to respond to the post-trial elections; instead, that court refused to engage in the delay exercise Defendant seeks here because it would not change the outcome. (*Id.*)

In their moving papers, Plaintiffs do exactly what the courts teach is appropriate upon remand – compare the Statement of Decision to the intervening Supreme Court authority. (See Motion, pp. 4-9.) As discussed above and in the Motion, the Statement of Decision is consistent with *Pico*, and addresses every aspect of what *Pico* identifies as relevant to the issue of dilution. As in *King*, *supra, Page, supra* and *Dickson, supra*, that compels reissuance of the judgment.

Defendant struggles to identify anything in *Pico* not addressed by this Court's Statement of Decision, pointing to just two aspects of the *Pico* opinion: 1) that dilution requires a potential "net gain in the protected class's potential to elect its candidates under an alternative system"; and 2) "predict[ing] how many candidates are likely to run and what percentage may be necessary to win." (Opposition, p. 12). But Defendant's argument misrepresents this Court's Statement of Decision on the first count, and misreads the California Supreme Court's opinion on the second.

A. This Court Has Already Found Available Remedies Would Provide a Net Gain in Latinos' Potential to Elect Their Preferred Candidate.

As more fully discussed in Plaintiffs' Motion (pp. 8-9), and not addressed by Defendant, this Court did, in fact, find that "several available remedies (district-based elections, cumulative voting, limited voting and ranked choice voting, each [] **would enhance Latino voting power over the current at-large system**." (SOD, pp. 38-39, emphasis added) That finding, and particularly the net gain of Latino voters in potential to elect their preferred candidate, was expressed repeatedly. (See *id*. at p. 39 ["Based on that evidence, the Court finds that the district map developed by Mr. Ely … will likely be effective, **improving Latinos' ability to elect their preferred candidate** … ."], emphasis added; *id*. at p. 65 ["cumulative voting, limited voting and ranked choice voting, are possible options in a CVRA action and would **improve Latino voting power in Santa Monica**"], emphasis added.) In

fact, it is precisely at the pages of the Statement of Decision cited by Defendant (Opposition, p. 6, citing SOD, pp. 38-39) where this Court found: "Even if 'dilution' were an element of a CVRA claim, separate and apart from a showing of racially polarized voting, the evidence still demonstrates dilution by the standard proposed by Defendant in its closing brief – 'that some alternative method of election would enhance Latino voting power." (SOD, p. 38.) Though Defendant refuses to acknowledge these findings, the California Supreme Court certainly did: "The trial court further found that the City's at-large voting system unlawfully diluted the electoral strength of its Latino residents within the meaning of the CVRA, in that several alternative voting systems—e.g., district-based elections, cumulative voting, limited voting, and ranked choice voting—would better enable Latino voters to elect candidates of their choice or influence the outcomes of elections." (*Pico* at 309, also see *id*. at 307)

That is in stark contrast to the situations addressed in *Richards v. CH2M Hill, Inc*. (2001) 26 Cal.4th 798 and *Guerrero v. Hestrin* (2020) 56 Cal.App.5th 172 – the lone cases cited by Defendant which did not appear in its "Motion Regarding Further Proceedings." [2] In *CH2M Hill* the California Supreme Court laid down the rule in what it called "the most muddled area in all of employment discrimination law" – whether a series of acts constitute a continuing violation of anti-discrimination statutes. (*Id*. at 813.) "[T]he trial court did not consider the 'permanence' of the employer's conduct" – the "factor" the California Supreme Court described as "perhaps of most importance" in the test for a continuing violation – because then-binding precedent (*Accardi v. Superior Court* (1993) 17 Cal.App.4th 341) had "dispensed with the permanence factor altogether." (*CH2M Hill*, 26 Cal.4th at 814, 816, 823-824.) Likewise, in *Guerrero*, the trial court applied the wrong standard and, as a result, the plaintiff was not allowed to testify to what the appellate court later found was the correct standard. (*Guerrero*, 56 Cal.App.5th at 190.) Here, Defendant fails to identify any factor announced by the Supreme Court that has not already been addressed by this Court, or any relevant evidence this Court should have considered but did not. If there were any necessary findings missing from this Court's Statement of Decision, perhaps it would be appropriate to engage in further factfinding specific to such missing pieces, but there are none.

Just like the other cases cited by Defendant in its "Motion Regarding Further Proceedings," and addressed at pages 7-12 of Plaintiffs' opposition to that motion, *CH2M Hill* merely shows that when the California Supreme Court announces a new and unforeseen legal standard that the trial court did

[2] The cases Defendant cited in its "Motion Regarding Further Proceedings" are addressed in Plaintiffs' opposition to that motion, and so that discussion is not repeated here.

not already address, it will instruct the trial court to permit the litigants to address that new and unforeseen standard with evidence on remand. But here, as discussed more fully at pages 9-12 of Plaintiffs' Opposition to Defendant's "Motion Regarding Further Proceedings," the California Supreme Court did the exact opposite – it recognized this Court had already addressed the standard it was elucidating (at the insistence of Defendant), never instructed this Court to re-open the evidence, and remanded the matter to the Court of Appeal for review of this Court's finding of dilution "under the correct legal standard." (*Pico* at 307, 325.)

B. This Court Found Dilution Based on Specific Findings of Minority Voting Power and Percentages Needed to Win Elections in Alternative Systems.

The Supreme Court's reference to "predict[ing] how many candidates are likely to run and what percentage may be necessary to win," cannot reasonably be read, as Defendant does, to require trial courts to determine with precision how many candidates will run in the next election and the precise percentage of the vote that will be needed to win; that task would be impossible. Reasonably read, the Supreme Court was merely instructing trial courts to examine the likely impact of an illustrative remedial district or other change to the election system, keeping in mind that "because the CVRA applies exclusively to nonpartisan elections, where there may be more than two candidates, the winner may prevail with far less than a majority of the vote." (*Pico* at 320.) That's what this Court did in this case. This Court recognized that "the Latino candidates preferred by Latino voters … while they lose citywide, they often receive the most votes in the Pico Neighborhood district," and, of course, receiving the most votes in a district equates to a win in a district-based election. (SOD, p. 66.) And, as the California Supreme Court instructed, this Court considered "the experiences of other similar jurisdictions that use district elections" as well – "jurisdictions that have switched from at-large elections to district elections as a result of CVRA cases have experienced a pronounced increase in minority electoral power, including Latino representation. Even in districts where the minority group is one-third or less of a district's electorate, minority candidates previously unsuccessful in at-large elections have won district elections." (*Pico* at 308; SOD, p. 66.) Based on this, and more, this Court determined the Pico Neighborhood district, where "Latinos comprise 30% of the citizen-voting-age-population," is sufficient to "result in the increased ability of [Latinos] to elect candidates of their choice." (SOD, p. 66.)

The analysis is even simpler for the non-district remedies addressed by both this Court and the California Supreme Court. In a cumulative, limited, or ranked-choice voting system, the Supreme

Court explained the percentage citywide needed to guarantee victory is the "threshold of exclusion," which, "in a jurisdiction with seven seats [like Santa Monica], [is] 12.5%." (*Pico* at 320, fn. 11, quoting *Dillard v. Chilton County Bd. Of Education* (M.D. Ala. 1988) 699 F.Supp. 870, 874.) In Santa Monica, as this Court and the Supreme Court recognized, Latinos comprise 13.64% of eligible voters (*id*. at 308; SOD, p. 66)—exceeding the threshold of exclusion of 12.5%. Thus, even under the most adverse circumstances, Latino voters, whom this Court found are cohesive and organized (SOD, pp. 18, 67), can elect their preferred candidate with cumulative, limited or ranked-choice voting.

With all of the factors identified in Pico relevant to the issue of dilution having already been addressed by this Court, in great detail in its Statement of Decision, there is no need for any further evidence or factfinding.

IV. DEFENDANT MISREPRESENTS THE COURT OF APPEAL'S DIRECTION

Unable to identify anything missing from this Court's Statement of Decision, or otherwise justify its request for a litigation do-over, Defendant misrepresents the Court of Appeal as having commanded "this Court to conduct a 'searching evaluation of the totality of the facts and circumstances." (Opposition, p. 5.) The Court of Appeal did no such thing; that searching evaluation is already reflected in this Court's 71-page Statement of Decision.

Nor did "the Court of Appeal reject[] plaintiffs' call to reinstate the 2019 judgment," as Defendant claims at page 9 of its Opposition. Plaintiffs asked the Court of Appeal to affirm the judgment, while Defendant asked the Court of Appeal to reverse the judgment, and the Court of Appeal did neither. Instead, the Court of Appeal pointed out that there is no judgment to affirm or reverse because the Supreme Court did not "reinstate the trial court's judgment on the Act." (Remand Order, p. 1.) That is something this Court, not an appellate court, must do.

In truth, other than a short recap of the procedural history of this case, and a two-sentence description of what, in the Court of Appeal's view, the Supreme Court did, the Court of Appeal's Remand Order included only a single sentence: "This case is remanded to the Los Angeles Superior Court for further proceedings consistent with the Supreme Court's guidance." That is similar to what the U.S. Supreme Court said in *King, supra,* 519 U.S. 978 – "Judgment vacated, and case remanded to the [] District Court [] for further consideration in light of *Shaw v. Hunt* [] and *Bush v. Vera* []," which prompted the district court to compare its previous decision to *Shaw* and *Bush*, and reissue its judgment, which was then affirmed by the U.S. Supreme Court. (See *King*, 979 F.Supp. 619, aff'd 522 U.S. 1087.)

If that sentence, or the Remand Order more generally, were read to command this Court to engage in further factfinding as Defendant insists, then it would be contrary to what the Supreme Court commanded: "we find it appropriate to remand the matter to the Court of Appeal to decide in the first instance whether, under the correct legal standard, plaintiffs ***have established*** that at-large elections dilute their ability to elect their preferred candidate; whether plaintiffs ***have demonstrated*** the existence of racially polarized voting; and any of the other unresolved issues in the City's appeal." (*Pico* at, 325, emphasis added.) The Supreme Court's command directs an examination of what has been "established" and "demonstrated" – in the past tense – not further presentation of evidence and factfinding in the future. There is no reason to believe the Court of Appeal intended to command this Court to do something that Defendant's own cases describe as being "not common" (see *Jenkins*, 4 F.3d at 1136) in contravention of what the Supreme Court commanded. Certainly, such a disrespect for the hierarchy of the courts should not be presumed.

V. IF DEFENDANT APPEALS A JUDGMENT OF THIS COURT, THE MANDATORY PORTIONS OF THE JUDGMENT WOULD BE STAYED BUT THE PROHIBITORY PORTIONS WOULD NOT.

As Plaintiffs explain in their moving papers, and this Court recognized long ago, it is critical that voting rights cases be decided promptly, not delayed by lengthy re-trials where the result is dictated by the findings already made by the court. (Motion, pp. 12-13, quoting SOD, p. 64 ["It is [] imperative that once a violation of voting rights is found, remedies be implemented promptly, lest minority residents continue to be deprived of their fair representation."], citing *Williams v. City of Dallas* (N.D. Tex. 1990) 734 F.Supp. 1317.)

Defendant nonetheless thumbs its nose at this Court, insisting that it can disregard a judgment duly entered by this Court much like it disregards this Court's Statement of Decision in opposing this motion. According to Defendant, the entire judgment would be automatically stayed pending appeal because it is mandatory in character. This, of course, assumes that Defendant's council will vote to appeal the judgment – a decision that must be voted on by the city council, not directed by the edict of outside attorneys. (See Gov't Code § 54957.1, subd. (a)(2).) Moreover, the prohibitory portions of the judgment would not be stayed pending appeal. (See *Agricultural Labor Relations Bd. v. Tex-Cal Land Management, Inc.* (1987) 43 Cal.3d 696, 709 ["Prohibitory portions of an order are not automatically stayed pending appeal."]; *Ohaver v. Fenech* (1928) 206 Cal. 118, 123 ["An injunction may grant both prohibitive and mandatory relief, and when it is of this dual character, and an appeal is taken, such appeal will not stay the prohibitive features of the injunction ... ."].)

While certain portions of the proposed judgment, for example paragraph 6 (commanding Defendant to hold a district-based special election for all seven seats on the Santa Monica City Council) and, as the Court of Appeal ruled, paragraph 7 (commanding the removal of at-large elected council members), are mandatory in character, other portions, for example paragraph 3 (enjoining Defendant from holding or certifying any further at-large elections) are prohibitory. Defendant proclaims that "[t]he Court of Appeal has already decided that the judgment plaintiffs ask this Court to reinstate is a mandatory injunction that will be stayed by the taking of an appeal" (Opposition, p. 18), but that is simply not true. (Shenkman Supp. Decl. ¶¶ 2-3, Ex. G.) While the Court of Appeal previously granted a writ of supersedeas, it did so only with respect to a single paragraph of the previous judgment that called for the removal of council members because that paragraph was mandatory, not prohibitory, in nature. (*Id.*) The prohibition of paragraph 3, in contrast, does not require the removal of council members; it doesn't require Defendant to do anything at all. It merely prohibits Defendant from holding any further at-large elections – essentially the same as the injunction the appellate court affirmed in another CVRA case – *Jauregui v. City of Palmdale* (2014) 226 Cal.App.4th 781 – and applauded the trial court for entering. (*Id*. at 808.) Had that same injunction in *Jauregui* been automatically stayed by the defendant's appeal, as Defendant appears to argue it was, there would have been nothing to applaud the trial court about because that injunction would have had no effect at all. Here, the only reason Defendant was able to hold at-large elections in 2020 and 2022 is that the Court of Appeal reversed this Court's judgment in June 2020 (before the 2020 election), and the California Supreme Courd did not reverse the Court of Appeal until August 2023.

If Defendant appeals the proposed judgment here, it could, but would not be required to, hold a district-based election, until resolution of its appeal. But, it could not hold another at-large election, and then claim that the voting rights of Latino residents must wait even longer while the councilmembers unlawfully elected in that at-large race complete their four-year terms. After more than eight years, enough is enough – Latino voters deserve to finally have their lawful voice in city government.

VI. CONCLUSION

The Statement of Decision fully addresses the dilution standard later elucidated in *Pico.* The corresponding judgment should therefore be reissued. Certainly, this Court should not permit the collateral attack on its previous findings, that Defendant seeks.

Dated: August 1, 2024

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By: /s/ Kevin Shenkman
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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 August 1, 2024, I served true copies of the following document(s) described as

REPLY IN SUPPORT OF MOTION TO REISSUE JUDGMENT CONSISTENT WITH GUIDANCE FROM THE CALIFORNIA SUPREME COURT

on the interested parties in this action as follows:

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BY ELECTRONIC SERVICE: I caused the document(s) in .pdf format to be delivered electronically to the persons listed in the Service List by email(s).

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

Executed on August 1, 2024 at Malibu, California.

/s/Kevin Shenkman
Kevin Shenkman