

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

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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.

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## PARTIES

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

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

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

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

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

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.

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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