

# Daily Journal

FEBRUARY 3, 2021

## TOP VERDICTS

THE LARGEST & MOST SIGNIFICANT  
VERDICTS AND APPELLATE REVERSALS  
IN CALIFORNIA IN 2020

### TOP APPELLATE REVERSALS

## Pico Neighborhood Association v. City of Santa Monica



**BOUTROUS**



**MCRAE**



**SCOLNICK**



**HENRY**



**ADLER**

In a blow to a thriving trend involving lawsuits targeting California cities for alleged violations of the California Voting Rights Act, a state appellate panel reversed a Los Angeles County Superior Court judge and set standards for future claims.

Plaintiffs will have to prove that existing municipal voting systems dilute minority votes. Claimants will have to show evidence that any proposed change in a system “is likely to make a difference in what counts in a democracy: electoral results,” Justice John Shepard Wiley Jr. wrote for a unanimous 2nd District Court of Appeal panel. *Pico Neighborhood Association v. City of Santa Monica*, B295935 (2nd DCA, op. filed July 9, 2020).

The decision reversed Judge Yvette M. Palazuelos of Los Angeles.

The ultimate outcome remains uncertain because the state Supreme Court has granted review.

But the lawyers representing Santa Monica said they expect the high court to affirm the appellate panel. “The CVRA is an unsettled issue without much appellate precedent, but we remain very confident that the plaintiffs’ self-serving view is not how the law was written or intended,” said Gibson Dunn partner Kahn A. Scolnick, who has been on the case from the start alongside law partners Theodore J. Boutrous Jr. and Marcellus A. McRae.

“We had a very strong conviction that we should have prevailed at trial,” McRae said. “We thought we had the correct interpretation of the law and the facts to support a verdict in our client’s favor.”

Boutrous said in an earlier statement, “The opinion correctly finds that Santa Monica’s election system complies with the California Voting Rights Act and the California Constitution. And the court rejected plaintiffs’ contrary theories as ‘unprecedented and

unwise,’ and lacking any legal or evidentiary support.”

The plaintiffs’ lead lawyer, Kevin I. Shenkman, predicted that his view of the issue will prevail at the Supreme Court. “To mimic My Cousin Vinnie, everything the Court of Appeal said was bullshit,” he said. “The panel was confused. They didn’t seem to understand that the California act is a lot different from the federal voting law.”

Shenkman and R. Rex Parris have sued municipalities around the state over the voting rights act. Most defendants switched their voting systems or put up only nominal resistance following legal warnings of costly litigation under the act’s fee-shifting provisions.

Shenkman said he’s won before. “We’ve had 100 percent success on a couple dozen CVRA cases. If we lose here it would put the entirety of municipal elections into chaos and undermine minority voting rights in California.”

— John Roemer

#### case INFO

#### California Voting Rights Act

2nd District Court of Appeal  
Justice John Shepard Wiley Jr.

**Appellant’s Lawyers:** Appellant’s attorneys: Gibson, Dunn & Crutcher LLP, Theodore J. Boutrous Jr., Marcellus A. McRae, Kahn A. Scolnick, Tiaunia N. Henry, Daniel R. Adler; Santa Monica City Attorney’s office, Helen Lane Dilg, George S. Cardona

**Appellee’s attorneys:** Shenkman & Hughes PC, Kevin I. Shenkman, Mary Ruth Hughes, Andrea A. Alarcon; Law Offices of Milton C. Grimes, Milton C. Grimes; Goldstein, Borgen, Dardarian & Ho, Morris J. Baller, Laura L. Ho, Anne P. Bellows; R. Rex Parris Law Firm, R. Rex Parris, Ellery S. Gordon