

California Supreme Court Provides Clarity on California Voting Rights Act Voter Dilution Requirement

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When evaluating vote dilution claims under the California Voting Rights Act ("CVRA"), courts must look at the totality of the facts and circumstances, including the characteristics of the specific locality, to determine whether an at-large election method impermissibly dilutes minority votes.

A community group representing Latino constituents in the neighborhood challenged Santa Monica's at-large election method alleging that the at-large elections violate the CVRA because, plaintiffs claimed, the at-large elections diluted Latino voters' ability to elect their preferred candidates and their ability to influence the outcome of city council elections. The California Court of Appeals found that the City did not violate the CVRA with its at-large elections because the community group could not show that there would be a single-member district where the Latino population would constitute a voting majority. The California Supreme Court overruled the Court of Appeals' requirement that plaintiffs show that a majority minority district could exist in a vote dilution claim, instead stating the requirement that courts must review "a totality of the facts" to determine whether voter dilution has occurred. This may be an easier threshold for CVRA plaintiffs to meet in some communities.

In *Pico Neighborhood Association v. City of Santa Monica*, the California Supreme Court confirmed that in challenges to at-large local election methods under the CVRA, the challenging party must show that the at-large election system dilutes a protected class's ability to elect candidates of its choice or its ability to influence the outcome of an election. To determine whether the protected class has the potential to elect its preferred candidate under some alternative system, Pico Union now requires an in-depth analysis of the totality of the facts, including a review of the political process and underlying circumstances in that locality, including the demographical characteristics of the specific locality, its electoral history, and an appraisal of the design and impact of the contested at large voting system and the potential alternative electoral

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system. To successfully establish voter dilution, the “totality of the facts” presented by the plaintiff in a CVRA action must identify an alternative election method that does not diminish the minority group’s ability to elect candidates or influence elections.”

The Court ultimately did not determine whether Santa Monica’s at-large elections violated the CVRA. But, by establishing an extremely fact-sensitive test for vote dilution cases, it will be difficult for public agencies going forward to evaluate whether their at-large election method will be found to impermissibly dilute votes under the CVRA. However, the Court has provided more detail as to the factors courts and public agencies must consider in individualized cases.

If you have any questions regarding the CVRA or this case, please contact **Marian Slocum, Craig Steele, Jim Markman**, or your RWG attorney.