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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

PETER LEE, MIRI PARK, HO SAM  
PARK, GENEY KIM, and YONAH  
HONG, individuals,

Plaintiffs,

v.

THE CITY OF LOS ANGELES,

Defendant.

Case No. CV 12-06618 CBM (JCGx)

(Consolidated for all proceedings with CV  
13-01410 CBM (JCGx))

**PLAINTIFF'S REQUEST FOR  
JUDICIAL NOTICE OF THE  
MEMORANDUM OPINION IN PAGE  
V. VIRGINIA STATE BD. OF  
ELECTIONS**

STANLEY HAVERILAND, THEODORE  
THOMAS, HORACE PENNMAN, JULIA  
SIMONS, HEATHER PRESHA, SALLY  
STEIN, individuals,

Plaintiffs,

v.

THE CITY OF LOS ANGELES, a  
municipal organization, and DOES 1-10,  
inclusive,

Defendants.

Date: September 9, 2014

Time: 10:00 a.m.

Judge: Consuelo B. Marshall

Pretrial Conf.: November 4, 2014

Trial: November 12, 2014

1 Pursuant to Federal Rule of Evidence 201, Plaintiffs Peter Lee, Miri Park, Ho  
2 Sam Park, Geney Kim and Yonah Hong (“Plaintiffs”) respectfully request that the Court  
3 take judicial notice of the following federal court decision, which was issued on October  
4 7, 2014, after this Court heard argument on the parties’ motions for summary judgment:

- 5 • Memorandum Opinion filed October 7, 2014 in *Page v. Virginia State*  
6 *Board of Elections*, Case No. 3:13-cv-00678-REP-LO-AKD (E.D. Va.),  
7 Docket No. 109 (attached).

8 In *Page*, a three judge panel found Virginia’s Third Congressional District to be  
9 an unconstitutional violation of the Equal Protection Clause because race predominated  
10 in the drawing of the District’s lines. The Court ordered the state legislature to redraw  
11 the District’s lines by April 15, 2015. Although this was a “mixed-motive” case, the  
12 Court reasoned that “to show that race predominated, Plaintiffs need not establish that  
13 the legislature disregarded every traditional districting principle” *Id.* at 25. The Virginia  
14 Legislature had increased the BVAP of the Third Congressional district by 3.2% by  
15 adding in primarily black neighborhoods into the district, and removing primarily white  
16 neighborhoods. The Court placed great weight on the statements of Delegate William  
17 Janis, the “architect” who played a “key role as sponsor” of the map that was ultimately  
18 found unconstitutional. *Id.* at 1-2.

19 This decision is important to the summary judgment motions pending before this  
20 Court for four main reasons discussed below.

21 **1. An identical strategy of increasing African American population was**  
22 **evidence of racial predominance.**

23 The Virginia Legislature’s strategy of removing predominantly white  
24 neighborhoods from the Third Congressional District, while adding predominantly black  
25 neighborhoods, is remarkably similar to what the Los Angeles Redistricting  
26 Commission did for CD 10. Just as in CD 10, the population of the Third District  
27 needed to increase, however both plans moved more individuals in and out of the  
28

1 district than was necessary to achieve the required population increase. *Id.* at 30. Just as  
 2 in CD 10, “the populations moved out of the Third Congressional district were  
 3 predominantly white, while the populations moved into the District were predominantly  
 4 African American.” *Id.*

5 **2. A demographic change smaller than the change in CD 10 was evidence**  
 6 **of racial predominance .**

7 The 3.8% increase in black CVAP in CD 10 is larger than the 3.2% BVAP  
 8 increase that the Court found unconstitutional in *Page*. Moreover, black CVAP (the  
 9 standard used in our case) is a more significant measurement than BVAP (the standard  
 10 used in the Virginia case). “Black CVAP” refers to the black citizen voting age  
 11 population while “BVAP” refers to the black voting age population. The former metric  
 12 is a more significant measurement because it narrows the focus to a group of individuals  
 13 who satisfy two requirements for voting (age and citizenship) rather than just one  
 14 requirement (age).

15 **3. Statements of racial motivation from the sponsor of the legislation**  
 16 **were accepted as the explanation of legislative intent.**

17 In *Page*, the court “deem[ed] it appropriate to accept the explanation of the  
 18 legislation’s author as to its purpose.” *Id.* at 22. The Court should do the same here –  
 19 most particularly, the statements of Commissioner Christopher Ellison and Council  
 20 President Herb Wesson, the key sponsors and architects of the CD 10 map, showing that  
 21 race predominated the re-drawing of CD 10’s lines. Indeed the statements of  
 22 Commissioner Ellison and Council President Wesson are much more pointed than the  
 23 remarks in Virginia. In *Page*, Delegate Janis stated that “[W]e can have no less  
 24 [percentage of African-American voters] than we have under the existing lines” and that  
 25 “the primary focus of how the lines in [the redistricting legislation] were drawn was to  
 26 ensure that there be no retrogression in the [Third] Congressional District.” *Id.* at 21, 2.  
 27 Mr. Janis’s apparent goal was making sure that the percentage of African American  
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1 voters did not *decrease*. Mr. Ellison took a much more aggressive approach when he  
2 sought to *increase* the African American voting population in CD 10. [Declaration of  
3 Hyongsoon Kim dated July 25, 2014, Exh. G, at CITY00020517 (“we found it  
4 necessary to *increase* the [African American] population.”) (Emphasis added)]. Council  
5 President Wesson’s racially motivated statements were even more explicit: “I was able  
6 to protect the most important asset that we as black people have. And that’s to make sure  
7 that a minimum of two of the council peoples will be black for the next thirty years.”  
8 [Declaration of Rev. Dr. Marvis Davis dated July 25<sup>th</sup>, 2014, ¶ 6.]

9  
10 **4. This Court may take judicial notice of the Virginia decision.**

11 A court judgment is the proper subject of judicial notice. *Novick v. UNUM Life*  
12 *Ins. Co. of Am.*, 570 F. Supp. 2d 1207, 1209 (C.D. Cal. 2008) (granting judicial notice of  
13 a recent district court decision after receiving briefing on a motion to strike); *U.S. ex rel.*  
14 *Robinson Rancheria Citizens Council v. Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992)  
15 (“[A Court] may take notice of proceedings in other courts, both within and without the  
16 federal judicial system, if those proceedings have a direct relation to matters at issue.”)  
17 (quotation marks removed); *Bryant v. Carleson*, 444 F.2d 353, 357 (9th Cir. 1971)  
18 (taking judicial notice of proceedings and filings in other courts, including a decision  
19 issued while the parties’ appeal was pending).

20 Dated: October 8 , 2014

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